

# **AGENDA**

## **Ways and Means Committee**

**February 16, 2010**

***One and One-Half Hours After Adjournment in Room 521 Blatt Building***

### **I. Revenue**

(Cooper, Barfield, Merrill, White, Young)

- A. House Bill 4200 – Extraordinary Retailer/Tourism Establishment
- B. House Bill 4343 - Air Incentive Bill
- C. House Bill 4478 - South Carolina Economic Development Competitiveness Act of 2010
- D. House Bill 4514 - Income Tax Revisions

*Other bills may be added. The order noted above is subject to change.*

# REPORT OF THE REVENUE POLICY SUBCOMMITTEE

(Cooper, Barfield, Merrill, White & AD Young - Staff Contact: Rena Grant)

## HOUSE BILL 4200

H. 4200 -- Reps. Cato, Cooper and Wylie: A BILL TO AMEND SECTION 12-21-6520, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF THE TOURISM INFRASTRUCTURE ADMISSIONS TAX ACT, SO AS TO PROVIDE A REVISED DEFINITION FOR AN "EXTRAORDINARY RETAIL ESTABLISHMENT" BY INCLUDING WITHIN THAT DEFINITION "AN EXTRAORDINARY TOURISM ESTABLISHMENT" AND REVISE THE REQUIREMENTS TO QUALIFY AS "AN EXTRAORDINARY RETAIL OR TOURISM ESTABLISHMENT"; AND TO AMEND SECTION 12-21-6590, AS AMENDED, RELATING TO THE DESIGNATION OF AN EXTRAORDINARY RETAIL OR TOURISM ESTABLISHMENT BY THE DEPARTMENT OF PARKS, RECREATION AND TOURISM, SO AS TO DELETE THE LIMIT ON SUCH DESIGNATIONS, TO ADD ADDITIONAL INFRASTRUCTURE IMPROVEMENT COSTS WHICH MAY BE INCLUDED WITH RESPECT TO THE CONSTRUCTION OF SUCH FACILITIES, AND TO REVISE THE REQUIREMENTS RELATING TO THE CONDITIONAL CERTIFICATION OF THE QUALIFICATION ON THESE FACILITIES.

***Summary of Bill:***

This bill revises the definition for an "extraordinary retail establishment" under the Tourism Infrastructure Admissions Tax Act by including within that definition "an extraordinary tourism establishment." The legislation revises the requirements to qualify as "an extraordinary retail or tourism establishment" and for the designation of such establishments by the Department of Parks, Recreation and Tourism, so as to eliminate the limit on such designations, add additional infrastructure improvement costs which may be included with respect to the construction of such facilities, and revise the requirements relating to the conditional certification of the qualification on these facilities.

***Introduced:*** 1/12/2010

***Received by Ways and Means:*** 1/12/2010

***Estimated Fiscal Impact:***

Pending

***Subcommittee Recommendation:***

Favorable

***Full Committee Recommendation:***

***Other Notes/Comments:***

# South Carolina Board of Economic Advisors

## Statement of Estimated State Revenue Impact

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**Date:** February 3, 2010

**Bill Number:** H.B. 4200

**Authors:** Cato; Cooper, and Wylie

**Committee Requesting Impact:** House Ways & Means Committee

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### Bill Summary

A bill to amend Section 12-21-6520, as amended, of the Code of Laws of South Carolina, 1976, relating to definitions for purposes of the Tourism Infrastructure Admissions Tax Act, so as to provide a revised definition for an "extraordinary retail establishment" by including within that definition "an extraordinary tourism establishment" and revise the requirements to qualify as "an extraordinary retail or tourism establishment"; and to amend Section 12-21-6590, as amended, relating to the designation of an extraordinary retail or tourism establishment by the Department of Parks, Recreation and Tourism, so as to delete the limit on such designations, to add additional infrastructure improvement costs which may be included with respect to the construction of such facilities, and to revise the requirements relating to the conditional certification of the qualification on these facilities.

### REVENUE IMPACT <sup>11</sup>

This bill is not expected to affect state General Fund tax revenue in FY2010-11.

### Explanation

This bill would amend Section 12-21-6520(14), as last amended by Act 116 of 2007, to amend the definition of "tourism or recreational facility" to include a "tourism" establishment. An "extraordinary tourism establishment" would be defined as a single store located in South Carolina within two miles of an interstate highway that is a destination establishment that attracts at least 2,000,000 visitors a year with at least 35% of those visitors traveling at least 50 miles to the establishment. This bill would delete language requiring the establishment to attract at least 3,500,000 visitors each year within a county. This bill would raise the required capital investment in the retail or tourism establishment from \$20,000,000 to \$50,000,000, and delete the requirement that "one or more hotels must be built to service the establishment within three years of occupancy." Only those extraordinary tourism facilities with a certificate of occupancy dated after July 1, 2009 would qualify. Section 12-21-6590(A) is also amended to remove the extraordinary retail or tourism facility approval limits by the Department of Parks, Recreation and Tourism (PRT) from four (4) to an indefinite amount. This bill would also amend Section 12-21-6590(B) to allow an applicant or entity to proceed with a proposed project if PRT fails to develop appropriate application forms for a conditional certification as an extraordinary tourism facility and if the capital investment requirement is met. If PRT fails to grant conditional certification to the entity within 60 days of receipt of an application, then the certification is deemed approved by PRT. This bill would also amend Section 12-21-6530(A) to change the percentage of admissions tax collected from an extraordinary retail or tourism establishment to be remitted to the Department of Revenue, and then sent to the county or municipality where the establishment is located, from one-quarter to three-quarters. Pursuant to Section 12-21-6520(14), however, the extraordinary retail or tourism establishment is not required to collect or remit admission taxes. Also, the benefit period is amended from 15 years to 20 years in Section 12-21-6520(2). No funds would be distributed to the Advisory Coordinating Council for Economic Development pursuant to Section 12-21-6540.

/s/ WILLIAM C. GILLESPIE, PH.D.

William C. Gillespie, Ph.D.  
Chief Economist

**Analyst:** Martin

<sup>11</sup> This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**South Carolina General Assembly**  
118th Session, 2009-2010

**H. 4200**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Cato, Cooper and Wylie

Document Path: I:\council\bill\bbm\9455htc10.docx

Introduced in the House on January 12, 2010

Currently residing in the House Committee on **Ways and Means**

Summary: Extraordinary retail establishment

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
11/17/2009	House	Prefiled
11/17/2009	House	Referred to Committee on <b>Ways and Means</b>
1/12/2010	House	Introduced and read first time <u>HJ-28</u>
1/12/2010	House	Referred to Committee on <b>Ways and Means</b> <u>HJ-28</u>

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**VERSIONS OF THIS BILL**

11/17/2009

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**A BILL**

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11 TO AMEND SECTION 12-21-6520, AS AMENDED, CODE OF  
12 LAWS OF SOUTH CAROLINA, 1976, RELATING TO  
13 DEFINITIONS FOR PURPOSES OF THE TOURISM  
14 INFRASTRUCTURE ADMISSIONS TAX ACT, SO AS TO  
15 PROVIDE A REVISED DEFINITION FOR AN  
16 "EXTRAORDINARY RETAIL ESTABLISHMENT" BY  
17 INCLUDING WITHIN THAT DEFINITION "AN  
18 EXTRAORDINARY TOURISM ESTABLISHMENT" AND  
19 REVISE THE REQUIREMENTS TO QUALIFY AS "AN  
20 EXTRAORDINARY RETAIL OR TOURISM  
21 ESTABLISHMENT"; AND TO AMEND SECTION 12-21-6590,  
22 AS AMENDED, RELATING TO THE DESIGNATION OF AN  
23 EXTRAORDINARY RETAIL OR TOURISM  
24 ESTABLISHMENT BY THE DEPARTMENT OF PARKS,  
25 RECREATION AND TOURISM, SO AS TO DELETE THE  
26 LIMIT ON SUCH DESIGNATIONS, TO ADD ADDITIONAL  
27 INFRASTRUCTURE IMPROVEMENT COSTS WHICH MAY  
28 BE INCLUDED WITH RESPECT TO THE CONSTRUCTION  
29 OF SUCH FACILITIES, AND TO REVISE THE  
30 REQUIREMENTS RELATING TO THE CONDITIONAL  
31 CERTIFICATION OF THE QUALIFICATION ON THESE  
32 FACILITIES.

33

34 Be it enacted by the General Assembly of the State of South  
35 Carolina:

36

37 SECTION 1. Section 12-21-6520(14) of the 1976 Code, as last  
38 amended by Act 116 of 2007, is further amended to read:

39

40 "(14) 'Tourism or recreational facility' also means an  
41 aquarium or natural history exhibit or museum located within or  
42 directly contiguous to an extraordinary retail or tourism

1 establishment as defined below. An extraordinary retail or tourism  
2 establishment is a single store located in South Carolina within two  
3 miles of an interstate highway ~~or in a county with at least three and~~  
4 ~~one half million visitors a year~~, and it must be a destination retail  
5 establishment which attracts at least two million visitors a year  
6 with at least thirty-five percent of those visitors traveling at least  
7 fifty miles to the establishment. The extraordinary retail or tourism  
8 establishment must have a capital investment of at least  
9 ~~twenty-five~~ fifty million dollars including land; and buildings and  
10 site preparation costs; ~~and one or more hotels must be built to~~  
11 ~~service the establishment within three years of occupancy.~~ Only  
12 establishments which receive a certificate of occupancy after July  
13 1, 2006 2009, qualify. ~~The Department of Parks, Recreation and~~  
14 ~~Tourism shall determine and annually certify whether a retail~~  
15 ~~establishment meets these criteria and its judgment is conclusive.~~  
16 The extraordinary retail or tourism establishment annually must  
17 collect and remit at least two million dollars in sales taxes but is  
18 not required to collect or remit admission taxes.”

19  
20 SECTION 2. A. Section 12-21-6590 of the 1976 Code, as last  
21 amended by Act 116 of 2007, is further amended to read:

22  
23 “Section 12-21-6590. (A) The Department of Parks, Recreation  
24 and Tourism may designate ~~no more than four~~ extraordinary retail  
25 or tourism establishments as defined in Section 12-21-6520(14),  
26 and for purposes of this section, sales taxes must be substituted for  
27 admissions taxes wherever admission tax appears in this Tourism  
28 Infrastructure Admissions Tax Act. For purposes of this section,  
29 additional infrastructure improvements include any aquarium or  
30 natural history exhibits or museum located within or directly  
31 contiguous to the extraordinary retail or tourism establishment  
32 which are dedicated to public use and enjoyment under such terms  
33 and conditions as may be required by the municipality or county in  
34 which they are located. Additional infrastructure improvements  
35 also ~~shall~~ include site prep, construction of real or personal  
36 property, parking, roadways, ingress and egress, utilities, costs  
37 which are included in the definition of redevelopment project costs  
38 as provided in Section 31-6-30(8) and other expenditures on the  
39 extraordinary retail or tourism establishment which directly  
40 support or service the aquarium or natural history museum or  
41 exhibits. The certification application made under this section must  
42 be executed by both the extraordinary retail or tourism  
43 establishment as well as the county or municipality.

1 (B) Prior to the completion of an extraordinary retail or tourism  
2 establishment, an entity may request that the county or  
3 municipality in which the facility is located provide an application  
4 for conditional certification to the Department of Parks, Recreation  
5 and Tourism based on reasonable projections that the facility will  
6 meet the requirements of Section 12-21-6520(14) within three  
7 years of the certificate of occupancy. Upon receipt of the  
8 certification from the county or municipality the Department of  
9 Parks, Recreation and Tourism ~~may~~ shall grant conditional  
10 certification to the entity as an extraordinary retail or tourism  
11 establishment ~~based on reasonable projections that the facility will~~  
12 ~~meet the requirements of Section 12-21-6520(14) within three~~  
13 ~~years of the certificate of occupancy. If the Department of Parks,~~  
14 ~~Recreation and Tourism grants the conditional certification to the~~  
15 ~~entity as an extraordinary retail establishment, and~~ it shall forward  
16 the approval for conditional certification to the department. The  
17 department shall notify the entity and either the county or the  
18 municipality, as applicable, of the approval.

19 An applicant obtaining conditional certification as an  
20 extraordinary retail or tourism establishment under this section and  
21 satisfying the requirements of conditional certification by the dates  
22 provided therein, ~~shall be~~ is deemed to satisfy all of the  
23 requirements of this article pertaining to qualification as an  
24 extraordinary retail or tourism establishment for the duration of the  
25 benefit period. The entity ~~shall be~~ is deemed to constitute a major  
26 tourism or recreation facility under Section 12-21-6520(12) and  
27 ~~shall be~~ is entitled to all of the benefits of this article for the  
28 duration of the benefit period without any further certification  
29 requirements. This subsection ~~shall~~ must not be construed to allow  
30 an applicant to receive the benefits provided in this article prior to  
31 satisfying the requirements of the conditional certification and of  
32 Section 12-21-6520(14).

33 The Department of Parks, Recreation and Tourism shall develop  
34 in a timely manner application forms and adopt guidelines  
35 governing the conditional certification process. If the Department  
36 of Parks, Recreation and Tourism fails to adopt application forms  
37 and guidelines in a timely manner, then the applicant or other  
38 entity may proceed under this article without regard to such forms  
39 or guidelines. If the department fails to grant conditional  
40 certification to the entity within sixty days of receipt of the  
41 conditional certification from the county or municipality, then the  
42 certification is deemed approved by the Department of Parks,

1 Recreation and Tourism and the county or municipality may  
2 forward the conditional certification directly to the department.

3 (C) If an applicant obtains conditional certification and  
4 complies with both the conditional certification and Section  
5 12-21-6520(14), then ~~one-half~~ three-quarters ~~shall~~ must be  
6 substituted for one-fourth in Section 12-21-6530(A), and twenty  
7 years must be substituted for fifteen years in Section  
8 12-21-6520(2) and no funds will be transferred to the council  
9 pursuant to Section 12-21-6540.”

10

11 B.For purposes of Section 12-21-6590(B) of the 1976 Code, as  
12 amended by subsection A of this section, the development of  
13 application forms and the adoption of guidelines by the  
14 Department of Parks, Recreation and Tourism are deemed timely if  
15 completed within ninety days of the effective date of this act.

16

17 SECTION 3. This act takes effect upon approval of the Governor.

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# REPORT OF THE REVENUE POLICY SUBCOMMITTEE

(Cooper, Barfield, Merrill, White & AD Young - Staff Contact: Rena Grant)

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## HOUSE BILL 4343

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H. 4343 -- Reps. Wylie, Harrell, Cooper, Stringer, Merrill, Allen, Allison, Ballentine, Bannister, Bedingfield, Bowen, Cato, Cole, Daning, Dillard, Erickson, Forrester, Gunn, Hamilton, Hardwick, Hearn, Hiott, Horne, Huggins, Kelly, Kirsh, Littlejohn, Loftis, Millwood, Mitchell, Nanney, Norman, Owens, Parker, Scott, G.R. Smith, Sottile, Umphlett, White, Willis and T.R. Young: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 19 TO TITLE 55 SO AS TO ESTABLISH THE SOUTH CAROLINA AIR SERVICE INCENTIVE AND DEVELOPMENT FUND UNDER THE SOUTH CAROLINA AERONAUTICS COMMISSION TO PROVIDE GRANTS TO REGIONAL ECONOMIC DEVELOPMENT ENTITIES OR AIR SERVICE DEVELOPMENT TASK FORCES TO PROVIDE MORE FLIGHT OPTIONS, MORE COMPETITION FOR AIR TRAVEL AND MORE AFFORDABLE AIR FARES FOR THE CITIZENS OF THE REGION AND THIS STATE, AND TO PROVIDE THE SELECTION CRITERIA AND SELECTION PROCESS FOR THESE GRANTS TO BE MADE FROM FUNDS PROVIDED TO OR APPROPRIATED FOR THE FUND BY THE GENERAL ASSEMBLY.

### ***Summary of Bill:***

This bill establishes the South Carolina Air Service Incentive and Development Fund under the South Carolina Aeronautics Commission to provide grants to regional economic development entities or air service development task forces to provide more flight options, more competition for air travel and more affordable air fares for the citizens of the region and this state. The purpose of establishing a state funded air service development grant program is to provide a portion of the funds required to supplement a risk mitigation program that may be needed by an airport or community to attract air service to their community. Additionally, this legislation establishes the selection criteria and selection process for these grants to be made from funds provided to or appropriated for the fund by the General Assembly.

Please see additional documentation for details.

***Introduced:*** 1/14/2010

***Received by Ways and Means:*** 1/14/2010

***Estimated Fiscal Impact:***

Pending

***Subcommittee Recommendation:***

Favorable

***Full Committee Recommendation:***

***Other Notes/Comments:***

THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SC HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFITS OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUCTED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT.

# South Carolina Board of Economic Advisors

## Statement of Estimated State Revenue Impact

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**Date:** February 3, 2010 **Bill Number:** H.B. 4343

**Authors:** Wylie; Harrell; Cooper; Stringer; Merrill, *et. al.*

**Committee Requesting Impact:** House Ways & Means Committee

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### Bill Summary

A bill to amend the Code of Laws of South Carolina, 1976, by adding Chapter 19 to Title 55 so as to establish the South Carolina Air Service Incentive and Development Fund under the South Carolina Aeronautics Commission to provide grants to regional economic development entities or air service development task forces to provide more flight options, more competition for air travel and more affordable air fares for the citizens of the region and this state, and to provide the selection criteria and selection process for these grants to be made from funds provided to or appropriated for the fund by the General Assembly.

### REVENUE IMPACT <sup>1/</sup>

This bill is not expected to increase or decrease General Fund revenue in FY2010-11.

### Explanation

This bill would add Chapter 19 to Title 55 to establish the South Carolina Air Service Incentive and Development Fund (Fund) within the South Carolina Aeronautics Commission (Commission). The General Assembly would provide or appropriate monies to the Fund not to exceed \$15,000,000 per fiscal year. All expenditures from the Fund shall be for a program to provide more flight options, more competition for air travel, and more affordable air fares for this State. The funds would be disbursed as grants by the Commission to the regional economic development entities or air service development task forces as established by law. Each grant would be matched by the grantee on the basis of 75% from the Fund and 25% from the grantee or local jurisdiction in which it is located. At the beginning of each regular session of the General Assembly, the Commission shall present a report on the effectiveness of the program to the House Ways & Means Committee and the Senate Finance Committee. Monies in the Fund may be carried forward from fiscal year to fiscal year and the interest earnings of the Fund shall remain a part of the Fund. In making annual awards, the secretary of the Commission must give highest priority to maintaining affordable airfares to eastern and western United States destinations. High priority must be given to United States owned, publically-traded network carriers. Priority also must be given to proposals that impact a majority of South Carolinians.

/s/ WILLIAM C. GILLESPIE, PH.D.

William C. Gillespie, Ph.D.  
Chief Economist

**Analyst:** Martin

<sup>1/</sup> This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**South Carolina General Assembly**  
118th Session, 2009-2010

**H. 4343**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Wylie, Harrell, Cooper, Stringer, Merrill, Allen, Allison, Ballentine, Bannister, Bedingfield, Bowen, Cato, Cole, Daning, Dillard, Erickson, Forrester, Gunn, Hamilton, Hardwick, Hearn, Hiott, Horne, Huggins, Kelly, Kirsh, Littlejohn, Loftis, Millwood, Mitchell, Nanney, Norman, Owens, Parker, Scott, G.R. Smith, Sottile, Umphlett, White, Willis and T.R. Young  
Document Path: l:\council\bills\bbm\9502htc10.docx

Introduced in the House on January 14, 2010

Currently residing in the House Committee on **Ways and Means**

Summary: Air Service Incentive and Development Fund

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
1/14/2010	House	Introduced and read first time <u>HJ-552</u>
1/14/2010	House	Referred to Committee on <b>Ways and Means</b> <u>HJ-553</u>

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**VERSIONS OF THIS BILL**

1/14/2010

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**A BILL**

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11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,  
12 1976, BY ADDING CHAPTER 19 TO TITLE 55 SO AS TO  
13 ESTABLISH THE SOUTH CAROLINA AIR SERVICE  
14 INCENTIVE AND DEVELOPMENT FUND UNDER THE  
15 SOUTH CAROLINA AERONAUTICS COMMISSION TO  
16 PROVIDE GRANTS TO REGIONAL ECONOMIC  
17 DEVELOPMENT ENTITIES OR AIR SERVICE  
18 DEVELOPMENT TASK FORCES TO PROVIDE MORE  
19 FLIGHT OPTIONS, MORE COMPETITION FOR AIR TRAVEL  
20 AND MORE AFFORDABLE AIR FARES FOR THE CITIZENS  
21 OF THE REGION AND THIS STATE, AND TO PROVIDE THE  
22 SELECTION CRITERIA AND SELECTION PROCESS FOR  
23 THESE GRANTS TO BE MADE FROM FUNDS PROVIDED  
24 TO OR APPROPRIATED FOR THE FUND BY THE GENERAL  
25 ASSEMBLY.

26

27 Be it enacted by the General Assembly of the State of South  
28 Carolina:

29

30 SECTION 1. Title 55 of the 1976 Code is amended by adding:

31

32 "CHAPTER 19

33

34 Air Service Incentive and Development Fund

35

36 Section 55-19-10. (A) There is established within the South  
37 Carolina Aeronautics Commission a fund which shall be known  
38 and referred to as the South Carolina Air Service Incentive and  
39 Development Fund and which shall be administered by the  
40 commission. The General Assembly in the annual general  
41 appropriations act or in other acts shall provide or appropriate  
42 monies for the South Carolina Air Service Incentive and

1 Development Fund which in the aggregate shall not exceed the  
2 sum of fifteen million dollars. All expenditures from the fund  
3 shall be for a program to provide more air flight options, more  
4 competition for air travel and more affordable air fares for this  
5 State, including regional airports.

6 (B) The monies credited to the South Carolina Air Service  
7 Incentive and Development Fund shall be disbursed as a grant by  
8 the commission to regional economic development entities or air  
9 service development task forces as established by law and shall be  
10 used for the development and implementation of a program to  
11 provide more air flight options, more competition for air travel and  
12 more affordable air fares for this State. Each grant shall be  
13 matched by monies from the grantee or the local jurisdiction in  
14 which it is located, on the basis of seventy-five percent from the  
15 South Carolina Air Service Incentive and Development Fund to  
16 twenty-five percent from the grantee or the local jurisdiction in  
17 which it is located.

18 (C) Annually at the beginning of each regular session of the  
19 General Assembly commencing one year after the effective date of  
20 this chapter, the commission shall evaluate and present a report on  
21 the effectiveness of this program to the House Ways and Means  
22 Committee and the Senate Finance Committee which shall include  
23 a summary of the expenditures from the fund and local matching  
24 monies received under the program and the results obtained for  
25 such expenditures.

26 (D) Monies in the Air Service Incentive and Development Fund  
27 may be carried forward from fiscal year to fiscal year and earnings  
28 of the fund shall remain part of the fund.

29

30 Section 55-19-20. The Aeronautics Commission shall accept  
31 grant proposals on a fiscal year basis within available funds from  
32 the governing bodies of regional economic development entities or  
33 air service development task forces to accomplish the purposes of  
34 the program in accordance with the following guidelines:

35 (1) proposals shall specify how the program will provide more  
36 flight options, more competition for air travel, and more affordable  
37 air fares for the State of South Carolina. In this regard, an  
38 applicant shall demonstrate that due diligence has been conducted  
39 with respect to a proposal for funding. Due diligence must be  
40 documented with an analysis of feasibility from a professional air  
41 service consultant or a letter of intent from a commercial  
42 scheduled air carrier;

1 (2) proposals shall specify the amount of funding requested  
2 through the South Carolina Air Service Incentive and  
3 Development Fund and indicate the source of the required local  
4 match of twenty-five percent;

5 (3) proposals shall specify how the program applicant will  
6 document the effectiveness of funding received under this  
7 program; and

8 (4) proposals also shall specify how expenditures and results  
9 from this program and local matching monies will be reported.

10

11 Section 55-19-30. (A) Grants from the South Carolina Air  
12 Service Incentive and Development Fund must be considered and  
13 may be awarded in accordance with the purposes of the program,  
14 which are more flight options, more competition for air travel, and  
15 more affordable air fares for this State. Selection criteria include  
16 the following:

17 (1) More air flight options including:

18 (a) number of scheduled, daily nonstop flights by  
19 commercial scheduled passenger air carriers to United States  
20 destinations;

21 (b) number of scheduled, daily one-stop flights by  
22 commercial scheduled passenger air carriers to United States  
23 destinations;

24 (c) number of scheduled, daily one-stop flights by  
25 commercial scheduled passenger air carriers to international  
26 destinations;

27 (d) number of connecting cities by a scheduled  
28 commercial passenger air carrier to United States destinations that  
29 are ranked in the region's top twenty-five markets in terms of  
30 origin and destination passengers;

31 (2) More competition for air travel including:

32 (a) number of scheduled, daily nonstop flights by  
33 commercial scheduled passenger air carriers to United States  
34 destinations served by two or more airlines;

35 (b) number of scheduled, daily one-stop flights by  
36 commercial scheduled passenger air carriers to United States  
37 destinations served by two or more airlines;

38 (c) number of scheduled, daily one-stop flights by  
39 commercial scheduled passenger air carriers to international  
40 destinations served by two or more airlines;

41 (d) average airfare for scheduled, connecting flights for  
42 the region's top twenty-five markets in terms of origin and  
43 destination passengers;

1       (3) More affordable air fares for South Carolina including:  
2       (a) average airfare for scheduled, round-trip, nonstop  
3 flights by commercial scheduled passenger air carriers to United  
4 States destinations;  
5       (b) average airfare for scheduled, round-trip, one-stop  
6 flights by commercial scheduled passenger air carriers to United  
7 States destinations;  
8       (c) average airfare for scheduled, round-trip, one-stop  
9 flights by commercial scheduled passenger air carriers to  
10 international destinations.  
11       (B) In making awards, the secretary must give highest priority  
12 to maintaining affordable airfares to eastern and western United  
13 States destinations. High priority must be given to United States  
14 owned, publicly traded network carriers. Priority also must be  
15 given to proposals that impact a majority of South Carolinians."  
16  
17 SECTION 2. This act takes effect upon approval by the Governor.  
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# **REPORT OF THE REVENUE POLICY SUBCOMMITTEE**

(Cooper, Barfield, Merrill, White & AD Young - Staff Contact: Rena Grant)

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## **HOUSE BILL 4478**

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H. 4478 -- Reps. Harrell, Cato, Cooper, Duncan, Harrison, Owens, Sandifer, White, Bingham, Barfield, D.C. Moss, Horne, Skelton, V.S. Moss, Bannister, Whitmire, Toole, J.R. Smith, Merrill, Hamilton, Thompson, Bedingfield, Stewart, Alexander, Allen, Allison, Anderson, Anthony, Bales, Battle, Bowen, Bowers, Brady, Branham, Brantley, G.A. Brown, R.L. Brown, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Crawford, Daning, Delleney, Dillard, Erickson, Forrester, Funderburk, Gambrell, Gilliard, Govan, Gunn, Hardwick, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Hosey, Howard, Huggins, Hutto, Jefferson, Kelly, Kennedy, King, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Mack, McEachern, Miller, Millwood, Nanney, J.H. Neal, J.M. Neal, Norman, Ott, Parker, Parks, Pinson, M.A. Pitts, Rice, Scott, Sellers, Simrill, D.C. Smith, G.M. Smith, G.R. Smith, J.E. Smith, Sottile, Spires, Stavrinakis, Stringer, Umphlett, Vick, Viers, Weeks, Williams, Willis, Wylie, A.D. Young and T.R. Young: A BILL TO ENACT THE "SOUTH CAROLINA ECONOMIC DEVELOPMENT COMPETITIVENESS ACT OF 2010" INCLUDING PROVISIONS TO AMEND SECTION 2-75-30, AS AMENDED, RELATING TO RESEARCH CENTERS OF EXCELLENCE MATCHING ENDOWMENTS, SO AS TO FURTHER PROVIDE FOR THE PROCESS AND PROCEDURES FOR AWARDING ENDOWMENTS AND FOR THE APPLICABILITY OF MATCHING REQUIREMENTS; TO AMEND SECTION 2-75-50, AS AMENDED, RELATING TO APPLICATION REQUIREMENTS FOR AN AWARD FROM THE CENTERS OF EXCELLENCE MATCHING ENDOWMENT, SO AS TO CLARIFY WHAT THE CONTENTS OF AN APPLICATION TO THE REVIEW BOARD MUST CONTAIN; TO AMEND SECTION 4-12-30, AS AMENDED, RELATING TO FEES IN LIEU OF TAXES, SO AS TO INCREASE THE NUMBER OF YEARS A FEE IS AVAILABLE AND TO DELETE A PROVISION THAT REQUIRES THE FAIR MARKET VALUE OF THE PROPERTY ESTABLISHED FOR THE FIRST YEAR OF THE FEE TO REMAIN THE FAIR MARKET VALUE OF THE REAL PROPERTY FOR THE LIFE OF THE FEE; TO AMEND SECTION 4-29-67, AS AMENDED, RELATING TO INDUSTRIAL DEVELOPMENT PROJECTS REQUIRING A FEE IN LIEU OF PROPERTY TAXES AGREEMENT, SO AS TO ADD CERTAIN DEFINITIONS, TO FURTHER PROVIDE FOR THE MINIMUM LEVEL OF INVESTMENT FOR A QUALIFIED NUCLEAR PLANT FACILITY, TO PROVIDE FOR THE TIMELINE WHEN THE SPONSOR MUST ENTER INTO AN INITIAL LEASE AGREEMENT WITH THE COUNTY IN REGARD TO A QUALIFIED NUCLEAR PLANT FACILITY, AND THE TIMELINES WHEN THE SPONSOR MUST MEET MINIMUM INVESTMENT REQUIREMENTS IN THE CASE OF A QUALIFIED NUCLEAR PLANT FACILITY AND PLACE THE PROJECT INTO SERVICE, AND TO DELETE A PROVISION REQUIRING THE FAIR MARKET VALUE OF THE PROPERTY ESTABLISHED FOR THE FIRST YEAR OF THE FEE TO REMAIN THE FAIR MARKET VALUE OF THE PROPERTY FOR THE LIFE OF THE FEE; TO AMEND SECTION 4-29-68, AS AMENDED, RELATING TO SPECIAL SOURCE REVENUE BONDS WHICH MAY BE ISSUED BASED ON THE RECEIPT OF CERTAIN REVENUES, SO AS TO SPECIFY THAT ONE OF THE PURPOSES FOR THE ISSUANCE OF THESE BONDS IS TO PAY FOR THE COST OF PERSONAL PROPERTY INCLUDING MACHINERY AND EQUIPMENT; BY ADDING CHAPTER 18 TO TITLE 11 SO AS TO ESTABLISH MECHANISMS AND PROCEDURES FOR THE ALLOCATION, REALLOCATION, AND ISSUANCE OF FEDERAL RECOVERY ZONE BONDS; TO AMEND SECTION 4-29-10, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO INDUSTRIAL DEVELOPMENT PROJECTS, SO AS TO REVISE THE DEFINITION OF "PROJECT" TO INCLUDE RECOVERY ZONE PROPERTY AS DEFINED BY FEDERAL LAW; TO AMEND SECTION 12-6-530, RELATING TO THE CORPORATE INCOME TAX, SO AS TO REDUCE THE RATE OF THE CORPORATE INCOME TAX FROM FIVE PERCENT



ANNUALLY TO ZERO BEGINNING IN 2011 OVER A TEN-YEAR PERIOD IN INTERVALS OF ONE-HALF PERCENT PER YEAR; TO AMEND SECTION 12-6-3360, AS AMENDED, RELATING TO JOB TAX CREDITS, SO AS TO REVISE THE DESIGNATION TERMINOLOGY FOR COUNTIES COMING WITHIN SPECIFIC CLASSIFICATIONS, TO FURTHER PROVIDE FOR THE CRITERIA FOR DETERMINING HOW COUNTIES FALL WITHIN CERTAIN TIERS, AND TO REVISE SPECIFIC TERMS OR DEFINITIONS USED FOR PURPOSES OF THIS SECTION; TO AMEND SECTION 12-6-3375, AS AMENDED, RELATING TO TAX CREDITS FOR PORT CARGO VOLUME INCREASES, SO AS TO REVISE THE MANNER IN WHICH TAX CREDIT ALLOCATIONS ARE DETERMINED AND THE AMOUNT OF THE CREDITS WHICH MAY BE ALLOCATED TO A QUALIFYING TAXPAYER; TO AMEND SECTION 12-10-30, AS AMENDED, RELATING TO DEFINITIONS UNDER THE ENTERPRISE ZONE ACT OF 1995, SO AS TO REVISE THE DEFINITIONS OF "EMPLOYEE" AND "PROJECT"; TO AMEND SECTION 12-10-50, AS AMENDED, RELATING TO QUALIFICATIONS FOR BENEFITS UNDER THE ENTERPRISE ZONE ACT OF 1995, SO AS TO REVISE THESE QUALIFICATIONS AND TO FURTHER PROVIDE FOR WHAT A BUSINESS MUST DO TO MEET THESE QUALIFICATIONS; TO AMEND SECTION 12-10-60, AS AMENDED, RELATING TO REVITALIZATION AGREEMENTS UNDER THE ENTERPRISE ZONE ACT OF 1995, SO AS TO FURTHER PROVIDE FOR THE TERMS, CONDITIONS, AND APPLICATION OF THESE REVITALIZATION AGREEMENTS, PROVIDE FOR WHEN SUCH AN AGREEMENT MUST BE EXECUTED, AND PERMIT THE ASSIGNMENT OF ENTERPRISE PROGRAM BENEFITS UNDER CERTAIN CONDITIONS; TO AMEND SECTION 12-10-80, AS AMENDED, RELATING TO JOB DEVELOPMENT CREDITS UNDER THE ENTERPRISE ZONE ACT OF 1995, SO AS TO EXPAND ELIGIBLE EXPENDITURES WHICH QUALIFY FOR THE CREDIT, TO CAP THE AMOUNT OF THE CREDITS PER JOB PER YEAR, TO REVISE CERTAIN TERMINOLOGY TO CONFORM TO EARLIER CHANGES HEREIN, TO FURTHER PROVIDE FOR THE CIRCUMSTANCES WHEN THESE CREDITS MAY BE CLAIMED AND THE MANNER OF THE DETERMINATION OF CERTAIN FACTORS NECESSARY TO QUALIFY FOR THE CREDITS, AND TO PROVIDE FOR THE SUSPENSION OF THE CREDITS UNDER CERTAIN CONDITIONS AND FOR WHEN THE CREDITS MAY BE CLAIMED; TO AMEND SECTION 12-10-85, AS AMENDED, RELATING TO THE PURPOSE AND USE OF STATE RURAL INFRASTRUCTURE FUNDS, SO AS TO REVISE THE PURPOSES FOR WHICH THESE FUNDS MAY BE USED AND THEIR AVAILABILITY; TO AMEND SECTION 12-14-20, RELATING TO THE PURPOSES OF THE ECONOMIC IMPACT ZONE COMMUNITY DEVELOPMENT ACT OF 1995, SO AS TO REVISE THESE PURPOSES; TO AMEND SECTION 12-14-60, AS AMENDED, RELATING TO INVESTMENT TAX CREDITS UNDER THE ECONOMIC IMPACT ZONE COMMUNITY DEVELOPMENT ACT OF 1995, SO AS TO REVISE THE AMOUNT OF THE CREDITS, THE QUALIFYING CRITERIA FOR THE CREDITS, AND FOR THE APPLICABILITY OF CERTAIN PROVISIONS TO THESE CREDITS; TO AMEND SECTION 12-15-10, RELATING TO THE CITATION OF THE SOUTH CAROLINA LIFE SCIENCES ACT, SO AS TO CHANGE THE CITATION; TO AMEND SECTION 12-15-20, RELATING TO DEFINITIONS UNDER THE RENAMED LIFE SCIENCES AND RENEWABLE ENERGY MANUFACTURING ACT, SO AS TO DEFINE THE TERM "RENEWABLE ENERGY MANUFACTURING FACILITY"; TO AMEND SECTION 12-15-30, RELATING TO QUALIFICATIONS OF CERTAIN EXPENSES UNDER THE ENTERPRISE ZONE ACT, PROCEDURES FOR WAIVERS, AND THE DURATION OF THESE PROVISIONS, SO AS TO EXPAND THE TYPES OF FACILITIES THAT QUALIFY AND THE DURATION OF THESE PROVISIONS; TO AMEND SECTION 12-15-40, RELATING TO INCOME TAX ALLOCATION AND APPORTIONMENT AGREEMENTS BETWEEN THE DEPARTMENT OF REVENUE AND TAXPAYERS ESTABLISHING A LIFE SCIENCES FACILITY, SO AS TO EXPAND THE TYPES OF FACILITIES TO WHICH THIS PROVISION APPLIES; TO AMEND SECTION 12-20-105, AS AMENDED, RELATING TO CREDITS AGAINST ITS CORPORATE LICENSE TAX LIABILITY FOR A COMPANY WHO PAYS CASH FOR INFRASTRUCTURE FOR AN ELIGIBLE PROJECT, SO AS TO FURTHER PROVIDE FOR THE ELIGIBILITY FOR THE CREDIT UNDER CERTAIN CIRCUMSTANCES OR THE CONTINUATION OF THE CREDIT; TO AMEND SECTION 12-28-2910, AS AMENDED, RELATING TO THE SOUTH CAROLINA COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT, SO AS TO AUTHORIZE THE COUNCIL TO EXPEND CERTAIN FUNDS FOR SPECIFIED PURPOSES UNDER SPECIFIED CONDITIONS; TO AMEND SECTION 12-37-930, RELATING TO VALUATION OF PROPERTY FOR PROPERTY TAX

PURPOSES AND DEPRECIATION ALLOWANCES FOR MANUFACTURERS, MACHINERY, AND EQUIPMENT, SO AS TO INCLUDE MACHINERY AND EQUIPMENT OF A RENEWABLE ENERGY MANUFACTURING FACILITY WITHIN THE DEPRECIATION ALLOWANCES ALLOWED FOR MACHINERY AND EQUIPMENT OF A LIFE SCIENCES FACILITY, AND TO DEFINE WHAT IS A QUALIFYING FACILITY; TO AMEND SECTION 12-43-220, AS AMENDED, RELATING TO CLASSIFICATION OF REAL PROPERTY FOR AD VALOREM TAX PURPOSES, SO AS TO PROVIDE THAT REAL PROPERTY OWNED BY OR LEASED TO A MANUFACTURER AND USED PRIMARILY RATHER THAN EXCLUSIVELY FOR WAREHOUSING AND WHOLESALE DISTRIBUTION IS NOT CONSIDERED USED BY THE MANUFACTURER IN THE CONDUCT OF ITS BUSINESS FOR PROPERTY TAX CLASSIFICATION PURPOSES; TO AMEND SECTION 12-44-30, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO REVISE CERTAIN DEFINITIONS AND ADD CERTAIN DEFINITIONS; TO AMEND SECTION 12-44-40, AS AMENDED, RELATING TO THE REQUIRED FEE AGREEMENT BETWEEN THE SPONSOR AND THE COUNTY UNDER THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO PROVIDE THE TIME WITHIN WHICH A SPONSOR HAS TO ENTER INTO A FEE AGREEMENT IN REGARD TO A QUALIFIED NUCLEAR PLANT FACILITY; TO AMEND SECTION 12-44-50, AS AMENDED, RELATING TO THE REQUIREMENT OF A FEE AGREEMENT UNDER THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO DELETE A PROVISION THAT REQUIRES THE FAIR MARKET VALUE OF THE PROPERTY ESTABLISHED FOR THE FIRST YEAR OF THE FEE TO REMAIN THE FAIR MARKET VALUE OF THE PROPERTY FOR THE LIFE OF THE FEE; TO AMEND SECTION 12-44-130, AS AMENDED, RELATING TO MINIMUM INVESTMENTS TO QUALIFY FOR A FEE AND OTHER REQUIREMENTS, SO AS TO CORRECT A REFERENCE; AND TO REPEAL SECTION 12-6-3450 RELATING TO AN INCOME TAX CREDIT FOR PERSONS TERMINATED FROM EMPLOYMENT AS A RESULT OF THE CLOSING OR REALIGNMENT OF A FEDERAL MILITARY INSTALLATION, SECTION 12-10-88 RELATING TO REDEVELOPMENT FEES IN REGARD TO CLOSED OR REALIGNED MILITARY INSTALLATIONS, SECTIONS 12-14-30, 12-14-40, 12-14-50, AND 12-14-70 RELATING TO ECONOMIC IMPACT ZONES AND ALLOWABLE DEDUCTIONS AGAINST SOUTH CAROLINA TAXABLE INCOME IN REGARD TO THESE ECONOMIC IMPACT ZONES.

***Summary of Bill:***

This bill enacts the "South Carolina Economic Development Competitiveness Act of 2010" to implement numerous private sector recommendations for fostering an economic development climate in the state to attract global business and industry investment. The legislation provides for the gradual elimination of the corporate income tax, such that, beginning with the year 2011, the corporate income tax rate of five percent annually is to be reduced by one-half percent per year until the rate reaches zero for the year 2020 and thereafter. The legislation authorizes the Coordinating Council on Economic Development to expend gasoline user fee funds set aside for economic development which were not obligated or committed as of July first of the current fiscal year only as necessary for the location or expansion of an industry or business facility in South Carolina. Eligible expenditures include water and sewer projects, road or rail construction and improvement

projects, land acquisition, fiber-optic cable, relocation of new employees, pollution control equipment, environmental test strips and similar due diligence reports, acquiring and improving real or personal property, and site preparation. The legislation revises provisions for the Centers of Excellence Matching Endowment that is funded from the South Carolina Education Lottery Account by authorizing the Secretary of Commerce to award one-third of the endowment. The legislation establishes provisions to allow the state to take full advantage of two new types of recovery zone bonds added by provisions of the federal American Recovery and Reinvestment Act of 2009 (ARRA). The legislation expands incentives for life sciences facilities so that they also apply to renewable energy manufacturing facilities involved in the production of solar energy collectors, wind turbines, or advanced lithium and ion, or other batteries for alternative energy motor vehicles. The legislation revises provisions for industrial development projects under fee in lieu of property taxes agreements, so as to accommodate investment in a qualified nuclear plant facility. The legislation revises provisions for fees in lieu of taxes, so as to increase the number of years a fee is available and eliminate the requirement that the fair market value of the property established for the first year of the fee remains the fair market value of the real property for the life of the fee. The legislation revises job tax credits, investment tax credits, revitalization agreements, and numerous other economic development incentive tools.

**Please see attached for a section by section summary.**

***Introduced:*** 1/28/2010

***Received by Ways and Means:*** 1/28/2010

***Estimated Fiscal Impact:***

Pending

***Subcommittee Recommendation:***

Favorable

***Full Committee Recommendation:***

***Other Notes/Comments:***

## H. 4478 Summary

### Section 1. Bill Title

Act shall be known as the South Carolina Economic Development Competitiveness Act of 2010

### Section 2. Centers of Excellence

Allows the Secretary of Commerce to award to Research Universities up to one-third of the Centers of Excellence Matching Endowment and waives match requirement for large projects (\$100m)

### Section 3. Centers of Excellence

Excludes Secretary of Commerce from normal application process

### Section 4. Fee-in-Lieu

Allows counties to extend fee-in-lieu to 30 years (from the current 20)

### Section 5. Fee-in-Lieu

Provides manufacturing real property in a fee-in-lieu will be taxed at FMV

### Section 6. Fee-in-Lieu

Extends Investment Period for a qualified nuclear plan facility; Manufacturing real property will be taxed at FMV

### Section 7. MCBP

Clarifies that SSC applies to M&E

### Section 8. Federal Recovery Zone Bond Reallocation

Allows cities and counties to pool federal Recovery Zone Facility bonds and Recovery Zone Economic Development bonds

### Section 9. Corporate Income Taxes

Repeals corporate income taxes by ½ a percentage each year until repealed

### Section 10. Job Tax Credit

Renames County Classifications and repeals any county classification not based on economic criteria; lowers employee threshold for QSRF

### Section 11. Port Tax Credit

Allows CCED to award up to \$4 million of withholding tax credits; simplifies the allocation process; allows the (CCED) to award up to \$1 million to new warehouse and distribution facilities.

### Section 12. Job Development Credit

Codifies EZ Guidelines that leased employees and part-time employees do not qualify

- Section 13. Job Development Credit  
Codifies EZ Guidelines on wages but repeals the average county wage rule (provides for lower of state or county wages)
- Section 14. Job Development Credit  
Codifies EZ Guidelines but provides EZ Guidelines and RVA may not be more restrictive than the statutes
- Section 15. Job Development Credit  
Codifies EZ Guidelines; allows the council to grant EZ benefits for large projects in half the normal time span (i.e., double up); allows operating leases and personal property as eligible expenditures
- Section 16. Rural Infrastructure Fund  
Requires RIF funds to be used for economic development
- Section 17. ITC  
Makes every county eligible for ITCs (currently only about half the counties qualify)
- Section 18. ITC  
For revenue impact purposes, the ITC is cut in half; eliminates antiquated provisions
- Section 19. Renewable Energy Manufacturers  
Adds renewal energy manufacturers (REM) to existing Life Sciences Act
- Section 20. Renewable Energy Manufacturers  
Defines a Renewable Energy Manufacturer
- Section 21. Renewable Energy Manufacturers  
Adds REM to Life Sciences Act provisions re: 15-year Allocation and Apportionment Agreements
- Section 22. Renewable Energy Manufacturers  
Adds REM to Life Sciences Act provisions re: employee relocation expenses
- Section 23. UTC  
Clarifies UTC provision regarding the procedure where a qualifying investment is not made in the year a utility makes a contribution
- Section 24. Set aside Funds  
Codifies (currently in Budget Proviso) and broadens the eligible uses for Set aside Funds
- Section 25. Renewable Energy Manufacturers  
Adds REM to the Life Sciences Act accelerated depreciation schedule
- Section 26. Property Taxes on Warehouse Owned by Manufacturers  
Allows a 6% assessment ratio on a warehouse owned by a manufacturer which is used primarily for warehouse purposes (current law requires exclusive use.)

Section 27. Fee-in-Lieu

Extends investment period for qualifying nuclear power plants; extends length of fee-in-lieu from 20 to 30 years

Section 28. Fee-in-Lieu

Extends investment period for qualifying nuclear power plants

Section 29. Fee-in-Lieu

Provides that manufacturing real property in a fee-in-lieu will be taxed at FMV

Section 30. Fee-in-Lieu

Technical correction

Section 31. Sections Repealed

Repeals Base Closure provisions

Section 32. Effective Date

Act takes approval upon signature of the Governor

**South Carolina General Assembly**  
118th Session, 2009-2010

**H. 4478**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Harrell, Cato, Cooper, Duncan, Harrison, Owens, Sandifer, White, Bingham, Barfield, D.C. Moss, Horne, Skelton, V.S. Moss, Bannister, Whitmire, Toole, J.R. Smith, Merrill, Hamilton, Thompson, Bedingfield, Stewart, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Battle, Bowen, Bowers, Brady, Branham, Brantley, G.A. Brown, R.L. Brown, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Crawford, Daning, Delleney, Dillard, Erickson, Forrester, Gambrell, Gilliard, Govan, Gunn, Hardwick, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Hosey, Howard, Huggins, Hutto, Jefferson, Kelly, Kennedy, King, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Mack, McEachern, Miller, Millwood, Nanney, J.M. Neal, Norman, Ott, Parker, Parks, Pinson, M.A. Pitts, Rice, Scott, Sellers, Simrill, D.C. Smith, G.M. Smith, G.R. Smith, J.E. Smith, Sottile, Spires, Stavrinakis, Stringer, Umphlett, Vick, Viers, Weeks, Williams, Willis, Wylie, A.D. Young, T.R. Young and Mitchell

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Introduced in the House on January 28, 2010

Currently residing in the House Committee on **Ways and Means**

Summary: Economic Development Competitiveness Act

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
1/28/2010	House	Introduced and read first time <u>HJ-42</u>
1/28/2010	House	Referred to Committee on <b>Ways and Means</b> <u>HJ-47</u>
2/2/2010	House	Member(s) request name removed as sponsor: J.H.Neal
2/2/2010	House	Member(s) request name added as sponsor: Mitchell

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**VERSIONS OF THIS BILL**

1/28/2010

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**A BILL**

11 TO ENACT THE "SOUTH CAROLINA ECONOMIC  
12 DEVELOPMENT COMPETITIVENESS ACT OF 2010"  
13 INCLUDING PROVISIONS TO AMEND SECTION 2-75-30, AS  
14 AMENDED, RELATING TO RESEARCH CENTERS OF  
15 EXCELLENCE MATCHING ENDOWMENTS, SO AS TO  
16 FURTHER PROVIDE FOR THE PROCESS AND  
17 PROCEDURES FOR AWARDING ENDOWMENTS AND FOR  
18 THE APPLICABILITY OF MATCHING REQUIREMENTS; TO  
19 AMEND SECTION 2-75-50, AS AMENDED, RELATING TO  
20 APPLICATION REQUIREMENTS FOR AN AWARD FROM  
21 THE CENTERS OF EXCELLENCE MATCHING  
22 ENDOWMENT, SO AS TO CLARIFY WHAT THE CONTENTS  
23 OF AN APPLICATION TO THE REVIEW BOARD MUST  
24 CONTAIN; TO AMEND SECTION 4-12-30, AS AMENDED,  
25 RELATING TO FEES IN LIEU OF TAXES, SO AS TO  
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27 AND TO DELETE A PROVISION THAT REQUIRES THE  
28 FAIR MARKET VALUE OF THE PROPERTY ESTABLISHED  
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31 OF THE FEE; TO AMEND SECTION 4-29-67, AS AMENDED,  
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33 REQUIRING A FEE IN LIEU OF PROPERTY TAXES  
34 AGREEMENT, SO AS TO ADD CERTAIN DEFINITIONS, TO  
35 FURTHER PROVIDE FOR THE MINIMUM LEVEL OF  
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3 REQUIRING THE FAIR MARKET VALUE OF THE  
4 PROPERTY ESTABLISHED FOR THE FIRST YEAR OF THE  
5 FEE TO REMAIN THE FAIR MARKET VALUE OF THE  
6 PROPERTY FOR THE LIFE OF THE FEE; TO AMEND  
7 SECTION 4-29-68, AS AMENDED, RELATING TO SPECIAL  
8 SOURCE REVENUE BONDS WHICH MAY BE ISSUED  
9 BASED ON THE RECEIPT OF CERTAIN REVENUES, SO AS  
10 TO SPECIFY THAT ONE OF THE PURPOSES FOR THE  
11 ISSUANCE OF THESE BONDS IS TO PAY FOR THE COST  
12 OF PERSONAL PROPERTY INCLUDING MACHINERY AND  
13 EQUIPMENT; BY ADDING CHAPTER 18 TO TITLE 11 SO AS  
14 TO ESTABLISH MECHANISMS AND PROCEDURES FOR  
15 THE ALLOCATION, REALLOCATION, AND ISSUANCE OF  
16 FEDERAL RECOVERY ZONE BONDS; TO AMEND SECTION  
17 4-29-10, AS AMENDED, RELATING TO DEFINITIONS IN  
18 REGARD TO INDUSTRIAL DEVELOPMENT PROJECTS, SO  
19 AS TO REVISE THE DEFINITION OF "PROJECT" TO  
20 INCLUDE RECOVERY ZONE PROPERTY AS DEFINED BY  
21 FEDERAL LAW; TO AMEND SECTION 12-6-530, RELATING  
22 TO THE CORPORATE INCOME TAX, SO AS TO REDUCE  
23 THE RATE OF THE CORPORATE INCOME TAX FROM FIVE  
24 PERCENT ANNUALLY TO ZERO BEGINNING IN 2011  
25 OVER A TEN-YEAR PERIOD IN INTERVALS OF ONE-HALF  
26 PERCENT PER YEAR; TO AMEND SECTION 12-6-3360, AS  
27 AMENDED, RELATING TO JOB TAX CREDITS, SO AS TO  
28 REVISE THE DESIGNATION TERMINOLOGY FOR  
29 COUNTIES COMING WITHIN SPECIFIC CLASSIFICATIONS,  
30 TO FURTHER PROVIDE FOR THE CRITERIA FOR  
31 DETERMINING HOW COUNTIES FALL WITHIN CERTAIN  
32 TIERS, AND TO REVISE SPECIFIC TERMS OR  
33 DEFINITIONS USED FOR PURPOSES OF THIS SECTION; TO  
34 AMEND SECTION 12-6-3375, AS AMENDED, RELATING TO  
35 TAX CREDITS FOR PORT CARGO VOLUME INCREASES,  
36 SO AS TO REVISE THE MANNER IN WHICH TAX CREDIT  
37 ALLOCATIONS ARE DETERMINED AND THE AMOUNT OF  
38 THE CREDITS WHICH MAY BE ALLOCATED TO A  
39 QUALIFYING TAXPAYER; TO AMEND SECTION 12-10-30,  
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41 ENTERPRISE ZONE ACT OF 1995, SO AS TO REVISE THE  
42 DEFINITIONS OF "EMPLOYEE" AND "PROJECT"; TO  
43 AMEND SECTION 12-10-50, AS AMENDED, RELATING TO

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3 QUALIFICATIONS AND TO FURTHER PROVIDE FOR  
4 WHAT A BUSINESS MUST DO TO MEET THESE  
5 QUALIFICATIONS; TO AMEND SECTION 12-10-60, AS  
6 AMENDED, RELATING TO REVITALIZATION  
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16 ACT OF 1995, SO AS TO EXPAND ELIGIBLE  
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18 CAP THE AMOUNT OF THE CREDITS PER JOB PER YEAR,  
19 TO REVISE CERTAIN TERMINOLOGY TO CONFORM TO  
20 EARLIER CHANGES HEREIN, TO FURTHER PROVIDE FOR  
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30 THESE FUNDS MAY BE USED AND THEIR AVAILABILITY;  
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34 REVISE THESE PURPOSES; TO AMEND SECTION 12-14-60,  
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36 CREDITS UNDER THE ECONOMIC IMPACT ZONE  
37 COMMUNITY DEVELOPMENT ACT OF 1995, SO AS TO  
38 REVISE THE AMOUNT OF THE CREDITS, THE  
39 QUALIFYING CRITERIA FOR THE CREDITS, AND FOR THE  
40 APPLICABILITY OF CERTAIN PROVISIONS TO THESE  
41 CREDITS; TO AMEND SECTION 12-15-10, RELATING TO  
42 THE CITATION OF THE SOUTH CAROLINA LIFE  
43 SCIENCES ACT, SO AS TO CHANGE THE CITATION; TO

1 AMEND SECTION 12-15-20, RELATING TO DEFINITIONS  
2 UNDER THE RENAMED LIFE SCIENCES AND  
3 RENEWABLE ENERGY MANUFACTURING ACT, SO AS TO  
4 DEFINE THE TERM "RENEWABLE ENERGY  
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10 FACILITIES THAT QUALIFY AND THE DURATION OF  
11 THESE PROVISIONS; TO AMEND SECTION 12-15-40,  
12 RELATING TO INCOME TAX ALLOCATION AND  
13 APPORTIONMENT AGREEMENTS BETWEEN THE  
14 DEPARTMENT OF REVENUE AND TAXPAYERS  
15 ESTABLISHING A LIFE SCIENCES FACILITY, SO AS TO  
16 EXPAND THE TYPES OF FACILITIES TO WHICH THIS  
17 PROVISION APPLIES; TO AMEND SECTION 12-20-105, AS  
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19 CORPORATE LICENSE TAX LIABILITY FOR A COMPANY  
20 WHO PAYS CASH FOR INFRASTRUCTURE FOR AN  
21 ELIGIBLE PROJECT, SO AS TO FURTHER PROVIDE FOR  
22 THE ELIGIBILITY FOR THE CREDIT UNDER CERTAIN  
23 CIRCUMSTANCES OR THE CONTINUATION OF THE  
24 CREDIT; TO AMEND SECTION 12-28-2910, AS AMENDED,  
25 RELATING TO THE SOUTH CAROLINA COORDINATING  
26 COUNCIL FOR ECONOMIC DEVELOPMENT, SO AS TO  
27 AUTHORIZE THE COUNCIL TO EXPEND CERTAIN FUNDS  
28 FOR SPECIFIED PURPOSES UNDER SPECIFIED  
29 CONDITIONS; TO AMEND SECTION 12-37-930, RELATING  
30 TO VALUATION OF PROPERTY FOR PROPERTY TAX  
31 PURPOSES AND DEPRECIATION ALLOWANCES FOR  
32 MANUFACTURERS, MACHINERY, AND EQUIPMENT, SO  
33 AS TO INCLUDE MACHINERY AND EQUIPMENT OF A  
34 RENEWABLE ENERGY MANUFACTURING FACILITY  
35 WITHIN THE DEPRECIATION ALLOWANCES ALLOWED  
36 FOR MACHINERY AND EQUIPMENT OF A LIFE SCIENCES  
37 FACILITY, AND TO DEFINE WHAT IS A QUALIFYING  
38 FACILITY; TO AMEND SECTION 12-43-220, AS AMENDED,  
39 RELATING TO CLASSIFICATION OF REAL PROPERTY FOR  
40 AD VALOREM TAX PURPOSES, SO AS TO PROVIDE THAT  
41 REAL PROPERTY OWNED BY OR LEASED TO A  
42 MANUFACTURER AND USED PRIMARILY RATHER THAN  
43 EXCLUSIVELY FOR WAREHOUSING AND WHOLESALE

1 DISTRIBUTION IS NOT CONSIDERED USED BY THE  
2 MANUFACTURER IN THE CONDUCT OF ITS BUSINESS  
3 FOR PROPERTY TAX CLASSIFICATION PURPOSES; TO  
4 AMEND SECTION 12-44-30, AS AMENDED, RELATING TO  
5 DEFINITIONS IN REGARD TO THE FEE IN LIEU OF TAX  
6 SIMPLIFICATION ACT, SO AS TO REVISE CERTAIN  
7 DEFINITIONS AND ADD CERTAIN DEFINITIONS; TO  
8 AMEND SECTION 12-44-40, AS AMENDED, RELATING TO  
9 THE REQUIRED FEE AGREEMENT BETWEEN THE  
10 SPONSOR AND THE COUNTY UNDER THE FEE IN LIEU OF  
11 TAX SIMPLIFICATION ACT, SO AS TO PROVIDE THE TIME  
12 WITHIN WHICH A SPONSOR HAS TO ENTER INTO A FEE  
13 AGREEMENT IN REGARD TO A QUALIFIED NUCLEAR  
14 PLANT FACILITY; TO AMEND SECTION 12-44-50, AS  
15 AMENDED, RELATING TO THE REQUIREMENT OF A FEE  
16 AGREEMENT UNDER THE FEE IN LIEU OF TAX  
17 SIMPLIFICATION ACT, SO AS TO DELETE A PROVISION  
18 THAT REQUIRES THE FAIR MARKET VALUE OF THE  
19 PROPERTY ESTABLISHED FOR THE FIRST YEAR OF THE  
20 FEE TO REMAIN THE FAIR MARKET VALUE OF THE  
21 PROPERTY FOR THE LIFE OF THE FEE; TO AMEND  
22 SECTION 12-44-130, AS AMENDED, RELATING TO  
23 MINIMUM INVESTMENTS TO QUALIFY FOR A FEE AND  
24 OTHER REQUIREMENTS, SO AS TO CORRECT A  
25 REFERENCE; AND TO REPEAL SECTION 12-6-3450  
26 RELATING TO AN INCOME TAX CREDIT FOR PERSONS  
27 TERMINATED FROM EMPLOYMENT AS A RESULT OF  
28 THE CLOSING OR REALIGNMENT OF A FEDERAL  
29 MILITARY INSTALLATION, SECTION 12-10-88 RELATING  
30 TO REDEVELOPMENT FEES IN REGARD TO CLOSED OR  
31 REALIGNED MILITARY INSTALLATIONS, SECTIONS  
32 12-14-30, 12-14-40, 12-14-50, AND 12-14-70 RELATING TO  
33 ECONOMIC IMPACT ZONES AND ALLOWABLE  
34 DEDUCTIONS AGAINST SOUTH CAROLINA TAXABLE  
35 INCOME IN REGARD TO THESE ECONOMIC IMPACT  
36 ZONES.

37

38 Be it enacted by the General Assembly of the State of South  
39 Carolina:

40

41 SECTION 1. This act is known and may be cited as the "South  
42 Carolina Economic Development Competitiveness Act of 2010".

43

1 SECTION 2. Section 2-75-30 of the 1976 Code, as last amended  
2 by Act 355 of 2008, is further amended to read:

3

4 "Section 2-75-30. (A) There is created the Centers of  
5 Excellence Matching Endowment. The endowment must be  
6 funded annually by appropriations from the South Carolina  
7 Education Lottery Account in an amount equal to thirty million  
8 dollars annually, except that endowment appropriations may not be  
9 funded until all state-supported scholarships are fully funded and  
10 only if eighty percent of the total state appropriations have been  
11 awarded by the review board as of June thirtieth of the previous  
12 fiscal year. Two-thirds of the endowment shall be awarded by the  
13 review board and one-third by the Secretary of Commerce. The  
14 total state appropriated funding amount shall include funds that  
15 have been returned to the endowment due to a dissolution,  
16 withdrawal, or termination of a center of excellence. The fund  
17 must be managed by the State Treasurer, subject to awards from  
18 the endowment as provided in this chapter. Interest earnings of the  
19 endowment must remain in the fund, and may be used at the  
20 review board's discretion for additional state awards. Interest  
21 earnings are not considered part of the total state appropriations  
22 unless used by the review board for additional state awards.

23 (B) Except as provided in subsection (C), an endowed chair  
24 proposal is considered awarded once a full review process is  
25 complete and the review board has voted in an affirmative on each  
26 proposal. A full review process shall include the following, but is  
27 not limited to:

28 (1) a technical and scientific review of each proposal. The  
29 three research universities shall work with the review board staff to  
30 nominate reviewers. The review board staff shall select no fewer  
31 than five technical reviewers to review each proposal, and a  
32 minimum of three technical and scientific reviews must be  
33 received by the review board staff for each proposal. The review  
34 board staff shall determine an appropriate number of technical  
35 reviewers and scientific and technical reviews. The review board  
36 staff shall limit the number of university-nominated reviewers to  
37 two per proposal;

38 (2) an on-site review of each proposal. The review board  
39 staff shall contract with a minimum of five out-of-state expert  
40 reviewers, to include individuals with expertise in economic  
41 development as well as in appropriate scientific disciplines, to  
42 serve on a site review team that shall visit each of the research  
43 universities. The review board staff shall determine an appropriate

1 number of expert reviewers. The on-site review team shall  
2 interview relevant investigators and other university personnel  
3 regarding proposals and shall have access to collected scientific  
4 and technical reviews as well as other materials germane to the  
5 proposed projects. The on-site review team shall evaluate the  
6 proposals using an approved set of metrics; each recommendation  
7 must include a detailed narrative which explains the on-site review  
8 team's recommendations; and

9 (3) a presentation of findings. The on-site review team shall  
10 present its findings to the review board, which shall make final  
11 decisions on awards. The on-site review team shall recommend  
12 an appropriate level of funding to achieve successfully the stated  
13 goals of each project. The review board shall consider these  
14 recommendations in determining award amounts for each project.

15 (C) The Secretary of Commerce annually may award one-third  
16 of the endowment based upon its own review process. It may  
17 require its own application to the three research universities, and  
18 the provisions contained in Sections 2-75-50 and 2-75-60 do not  
19 apply. The matching requirement contained in Sections 2-75-90  
20 and 2-75-110 do not apply when the Secretary of Commerce  
21 certifies to the review board that the endowed professor will  
22 directly support a business or industry in South Carolina which  
23 will invest within a one-year period at least one hundred million  
24 dollars in capital investment at a single site after January 1, 2010."  
25

26 SECTION 3. Section 2-75-50(A) of the 1976 Code, as last  
27 amended by Act 355 of 2008, is further amended to read:  
28

29 "(A) An application to the review board for an award from the  
30 endowment shall:

31 (1) provide to the review board documentation of private  
32 matching funds, on hand, in an amount equal to the amount for  
33 which application is made;

34 (2) provide to the review board documentation that all  
35 matching funds have been committed and raised exclusively from  
36 sources other than South Carolina tax dollars, and that the funds  
37 have been committed and raised after January 1, 2002;

38 (3) be in an amount of not less than two million dollars and  
39 not more than five million dollars;

40 (4) document that the application has significant potential to  
41 provide for enhanced economic development for the citizens of  
42 South Carolina in a specified knowledge-based industry or field of  
43 commerce; and

1 (5) provide specific partnering activities with other  
2 institutions, businesses, or the community.”  
3

4 SECTION 4. Section 4-12-30(C)(4) of the 1976 Code, as last  
5 amended by Act 116 of 2007, is further amended to read:  
6

7 “(4) The annual fee provided by subsection (D)(2) is available  
8 for no more than ~~twenty~~ thirty years for an applicable piece of  
9 property. The sponsor may apply to the county prior to the end of  
10 the ~~twenty-year~~ thirty-year period for an extension of the fee  
11 period for up to ten years. The county council of the county shall  
12 approve an extension by resolution upon a finding of substantial  
13 public benefit. A copy of the resolution shall be delivered to the  
14 department within thirty days of the date the resolution was  
15 adopted. For projects completed and placed in service during more  
16 than one year, each year’s investment may be subject to the fee in  
17 subsection (D)(2) for ~~twenty~~ thirty years or, if extended as  
18 provided in this subsection up to ~~thirty~~ forty years, for an  
19 aggregate fee period of up to ~~forty~~ fifty years. For those sponsors  
20 qualifying under subsection (D)(4), the annual fee is available for  
21 no more than ~~thirty~~ forty years for an applicable piece of property  
22 and for those projects placed in service in more than one year the  
23 annual fee is available for an aggregate fee period of up to  
24 ~~forty-three~~ fifty-three years, or for those sponsors qualifying  
25 pursuant to subsection (C)(3), ~~forty-five~~ fifty-five years.  
26

27 SECTION 5. Section 4-12-30(D)(2)(a)(i) of the 1976 Code, as  
28 last amended by Act 462 of 1996, is further amended to read:  
29

30 “(i) for real property, using the original income tax basis for  
31 South Carolina income tax purposes without regard to  
32 depreciation, if real property is constructed for the fee or is  
33 purchased in an arm’s length transaction; otherwise, the property  
34 must be reported at its fair market value for ad valorem property  
35 tax purposes as determined by appraisal. ~~The fair market value~~  
36 ~~estimate established for the first year of the fee remains the fair~~  
37 ~~market value of the real property for the life of the fee; and”~~  
38

39 SECTION 6. Section 4-29-67 of the 1976 Code, as last amended  
40 by Act 352 of 2008, is further amended to read:  
41

42 “Section 4-29-67. (A)(1) As used in this section:

1 (a) 'Department' means the South Carolina Department of  
2 Revenue.

3 (b) 'Lease agreement' means an agreement between the  
4 county and a sponsor leasing the property at the project from the  
5 county to a sponsor.

6 (c) 'Project' means land, buildings, and other  
7 improvements on the land including water, sewage treatment and  
8 disposal facilities, air pollution control facilities, and all other  
9 machinery apparatus, equipment, office facilities, and furnishings  
10 which are considered necessary, suitable, or useful by a sponsor.  
11 'Project' also may consist of or include aircraft hangered or  
12 utilizing an airport in a county so long as the county expressly  
13 consents to its inclusion. Aircraft previously subject to taxation in  
14 South Carolina qualify pursuant to this provision.

15 (d) 'Qualified nuclear plant facility' means a nuclear  
16 electric power generating plant regulated by the Nuclear  
17 Regulatory Commission and includes all real and personal  
18 property incorporated into or associated with the facility located or  
19 to be located within this State with a total minimum level of  
20 investment of one billion dollars.

21 (de) 'Sponsor' means one or more entities which sign the  
22 inducement agreement with the county and also includes a sponsor  
23 affiliate unless the context clearly indicates otherwise.

24 (ef) 'Sponsor affiliate' means an entity that joins with, or is  
25 an affiliate of, a sponsor and that participates in the investment in,  
26 or financing of, a project.

27 (2) Notwithstanding the provisions of Section 4-29-60, and  
28 notwithstanding that the sponsor does not request the county to  
29 issue bonds to finance the property, the county and a sponsor may  
30 enter into an inducement agreement that provides for a fee in lieu  
31 of taxes as provided in this section for certain property, title to  
32 which is held by the county and which is leased to a sponsor.

33 (B) For property to qualify for the fee as provided in subsection  
34 (D)(2):

35 (1) Title to the property must be held by the county. In the  
36 case of a project located in an industrial development park as  
37 defined in Section 4-1-170, title may be held by more than one  
38 county, if each county is a member of the industrial development  
39 park. Real property transferred to the county through a lease  
40 agreement must include a legal description and plat of the real  
41 property. Property titled in the name of a county pursuant to this  
42 section is considered privately owned for purposes of Section  
43 58-3-240.



1 (2) The project must be located in a single county or an  
2 industrial development park as defined in Section 4-1-170. A  
3 project located on a contiguous tract of land in more than one  
4 county, but not in an industrial development park, may qualify for  
5 the fee if:

6 (a) the counties agree on the terms of the fee and the  
7 distribution of the fee payment;

8 (b) the minimum millage rate is provided for in the  
9 agreement; and

10 (c) all the counties are parties to all agreements  
11 establishing the terms of the fee.

12 (3) The minimum level of investment in the project must be  
13 at least forty- five million dollars and must be invested within the  
14 time period provided in subsection (C). If a county has an average  
15 annual unemployment rate of at least twice the state average  
16 during the last twenty-four months based on data available on the  
17 most recent November first, the minimum level of investment is  
18 one million dollars. The department shall designate these reduced  
19 investment counties by December thirty-first of each year using  
20 data from the South Carolina Employment Security Commission  
21 and the United States Department of Commerce. The designations  
22 are effective for a sponsor whose inducement agreement is signed  
23 in the calendar year following the county designation. Investments  
24 may include amounts expended by a sponsor or sponsor affiliate as  
25 a nonresponsible party in a voluntary cleanup contract on the  
26 property at the project pursuant to Article 7, Chapter 56 of Title  
27 44, the Brownfields Voluntary Cleanup Program, if the  
28 Department of Health and Environmental Control certifies  
29 completion of the cleanup. If the amounts under the Brownfields  
30 Voluntary Cleanup Program equal at least one million dollars, the  
31 investment threshold requirement of this section is met.

32 (4)(a) A sponsor and a sponsor affiliate may qualify for the  
33 fee if each sponsor and sponsor affiliate invests the minimum level  
34 of investment at the project. If the project consists of a  
35 manufacturing, research and development, corporate office, or  
36 distribution facility as those terms are defined in Section  
37 12-6-3360(M) and including a qualified nuclear plant facility as  
38 defined in Section 12-44-30(17), each sponsor or sponsor affiliate  
39 is not required to invest the minimum investment required by  
40 subsection (B)(3) if the total investment at the project exceeds  
41 forty-five million dollars.

42 (b)(i) Investments by sponsor affiliates within the time  
43 periods provided in subsection (C)(1) and (2) qualify for the fee

1 regardless of whether or not the sponsor affiliate was part of the  
2 inducement agreement, so long as sponsor affiliates are approved  
3 specifically by the county and agree to be bound by agreements  
4 with the county relating to the fee; except that sponsor affiliates  
5 are not bound by agreements, or portions of agreements, to the  
6 extent those agreements do not affect the county. The investments  
7 pursuant to this subsection must be at the same project. The  
8 inducement agreement or the lease agreement may provide for a  
9 process for approval of sponsor affiliates.

10 (ii) The department must be notified in writing of all  
11 sponsor affiliates that have investments subject to the fee on or  
12 before ninety days after the end of the calendar year during which  
13 the project or pertinent phase of the project is placed in service.  
14 The department may extend this period upon written request.  
15 Failure to meet this notice requirement does not affect adversely  
16 the fee, but a penalty of up to ten thousand dollars a month or  
17 portion of a month with the total penalty not to exceed one  
18 hundred twenty thousand dollars may be assessed by the  
19 department for late notification.

20 (iii)A. Except as provided in subsection (D)(4) if, at any  
21 time, a sponsor no longer has the minimum level of investment as  
22 provided in subsection (B)(3), that sponsor no longer qualifies for  
23 the fee.

24 B. Except as provided in subsection (Q), if a sponsor  
25 qualifies for the fee pursuant to subsection (D)(4), the sponsor  
26 must maintain the applicable level of investment, without regard to  
27 depreciation, and any applicable job requirements provided in  
28 (D)(4). If the sponsor fails to maintain the applicable investment  
29 or any job requirements provided in (D)(4), it no longer qualifies  
30 for the fee.

31 C. Except as provided in subsection (Q), if an  
32 inducement agreement or a lease agreement provides for an  
33 investment above the minimum investment provided in subsection  
34 (B)(3), and the sponsor fails to maintain the investment provided  
35 for in the agreement, the sponsor no longer qualifies for the fee.

36 (C)(1) Except as provided in subsection (W)(1), from the end of  
37 the property tax year in which the sponsor and the county execute  
38 an inducement agreement, the sponsor has five years in which to  
39 enter into an initial lease agreement with the county.

40 (2)(a) From the end of the property tax year in which the  
41 sponsor and the county execute the initial lease agreement, the  
42 sponsor has five years in which to complete its investment for  
43 purposes of qualifying for this section. If the sponsor does not

1 anticipate completing the project within five years, the sponsor  
2 may apply to the county before the end of the five-year period for  
3 making the investment for an extension of time to complete the  
4 project. If the county agrees to grant the extension, it must be in  
5 writing, and a copy must be delivered to the department within  
6 thirty days of the date the extension was granted. The extension  
7 may not exceed five years. If a project receives an extension of  
8 less than five years, the sponsor may apply to the county before the  
9 end of the extension period for an additional extension of time to  
10 complete the project for an aggregate extension of not more than  
11 five years. Unless approved as part of the original lease  
12 documentation, the county council of the county may approve any  
13 extension by resolution, a copy of which must be delivered to the  
14 department within thirty days of the date the resolution was  
15 adopted.

16 (b) An extension of the five-year period in which to meet  
17 the minimum level of investment is not allowed. If the minimum  
18 level of investment is not met within five years, all property  
19 covered by the lease agreement or agreements reverts retroactively  
20 to the payments required by Section 4-29-60. The difference  
21 between the fee actually paid by the sponsor and the payment due  
22 pursuant to Section 4-29-60 is subject to interest, as provided in  
23 Section 12-54-25(D). To the extent necessary to determine if a  
24 sponsor or sponsor affiliate has met its investment requirements,  
25 any statute of limitation that might apply pursuant to Section  
26 12-54-85 is suspended for all sponsors and sponsor affiliates and  
27 the department or the county may seek to collect any amounts that  
28 may be due pursuant to this section.

29 (c) Unless property qualifies as replacement property  
30 pursuant to a contract provision enacted pursuant to subsection  
31 (F)(2), property placed in service after the five-year period, or the  
32 ten-year period in the case of a project which has received an  
33 extension, is not part of the fee agreement pursuant to subsection  
34 (D)(2) and is subject to the payments required by Section 4-29-60  
35 if the county has title to the property or ad valorem property taxes,  
36 if the sponsor has title to the property.

37 (d) For purposes of those businesses qualifying under  
38 subsection (D)(4), the five-year period referred to in this  
39 subsection is eight years. For those sponsors which, after  
40 qualifying pursuant to subsection (D)(4), have more than five  
41 hundred million dollars in capital invested in this State and employ  
42 more than one thousand people in this State, the five-year period

1 referred to in this subsection is ten years, and the ten-year period is  
2 fifteen years.

3 (3) The annual fee provided by subsection (D)(2) is  
4 available for no more than twenty years for an applicable piece of  
5 property. The sponsor may apply to the county prior to the end of  
6 the twenty-year period for an extension of the fee period for up to  
7 ten years. The county council of the county may approve an  
8 extension by resolution upon a finding of substantial public  
9 benefit. A copy of the resolution shall be delivered to the  
10 department within thirty days of the date the resolution was  
11 adopted. For projects which are completed and placed in service  
12 during more than one year, each year's investment may be subject  
13 to the fee in subsection (D)(2) for twenty years or, if extended as  
14 provided in this subsection, up to thirty years, for an aggregate  
15 maximum fee period of up to forty years. For those sponsors  
16 qualifying under subsection (D)(4), the annual fee is available for  
17 no more than thirty years for an applicable piece of property and  
18 for those projects placed in service in more than one year, the  
19 annual fee is available for an aggregate fee period of up to  
20 forty-three years or, for those sponsors qualifying pursuant to item  
21 (2)(d), forty-five years.

22 (4) During the time period allowed to meet the minimum  
23 investment level, the investor annually must inform the appropriate  
24 county official of the total amount invested.

25 (D) The inducement agreement must provide for fee payments,  
26 to the extent applicable, as follows:

27 (1)(a) Any property is subject to an annual fee payment as  
28 provided in Section 4-29-60 before being placed in service.

29 (b) Any undeveloped land is subject to an annual fee  
30 payment as provided in Section 4-29-60 before being developed  
31 and placed in service. The time during which fee payments are  
32 made pursuant to Section 4-29-60 is not considered part of the  
33 maximum periods provided in subsection (C)(2) and (3), and a  
34 lease is not an "initial lease agreement" for purposes of this section  
35 until the first day of the calendar year for which a fee payment is  
36 due pursuant to subsection (D)(2) in connection with the lease.

37 (2) After property qualifying pursuant to subsection (B) is  
38 placed in service, an annual fee payment, determined in  
39 accordance with one of the following, is due:

40 (a) an annual payment in an amount not less than the  
41 property taxes that would be due on the project if it were taxable,  
42 but using:

1 (i) an assessment ratio of at least six percent, or four  
2 percent for those projects qualifying pursuant to subsection (D)(4);  
3 (ii) a fixed millage rate as provided in subsection (G);  
4 and  
5 (iii) a fair market value estimate determined by the  
6 department as follows:  
7 A. for real property, using the original income tax  
8 basis for South Carolina income tax purposes without regard to  
9 depreciation. If real property is constructed for the fee or is  
10 purchased in an arms-length transaction, using the original tax  
11 basis, otherwise the property must be reported at its fair market  
12 value for ad valorem property tax purposes as determined by  
13 appraisal. ~~The fair market value established for the first year of the~~  
14 ~~fee remains the fair market value for the life of the fee;~~ and  
15 B. for personal property, using the original tax basis  
16 for South Carolina income tax purposes, less depreciation  
17 allowable for property tax purposes; except that the sponsor is not  
18 entitled to any extraordinary obsolescence;  
19 (b) an annual payment based on an alternative  
20 arrangement yielding a net present value of the sum of the fees for  
21 the life of the agreement not less than the net present value of the  
22 fee schedule as calculated pursuant to subsection (D)(2)(a). Net  
23 present value calculations performed pursuant to this subsection  
24 must use a discount rate equivalent to the yield in effect for new or  
25 existing United States Treasury bonds of similar maturity as  
26 published during the month in which the inducement agreement is  
27 executed. If no yield is available for the month in which the  
28 inducement agreement is executed, the last published yield for the  
29 appropriate maturity must be used. If there are no bonds of  
30 appropriate maturity available, bonds of different maturities may  
31 be averaged to obtain the appropriate maturity; or  
32 (c) an annual payment as provided in subsection  
33 (D)(2)(a), except that every fifth year the applicable millage rate  
34 may increase or decrease in step with the average actual millage  
35 rate applicable in the district where the project is located based on  
36 the preceding five-year period.  
37 (3) At the conclusion of the payments determined pursuant  
38 to items (1) and (2) of this subsection the annual fee payment is  
39 equal to the taxes due on the project as if it were taxable. When  
40 the property is no longer subject to the fee pursuant to subsection  
41 (D)(2), the fee or property taxes must be assessed:

1 (a) with respect to real property, based on the fair market  
2 value as of the latest reassessment date for similar taxable  
3 property; and

4 (b) with respect to personal property, based on the  
5 then-depreciated value applicable to the property under the fee,  
6 and after that continuing with the South Carolina property tax  
7 depreciation schedule.

8 (4)(a) The assessment ratio may not be lower than four  
9 percent:

10 (i) in the case of a single sponsor investing at least one  
11 hundred fifty million dollars and which is creating at least one  
12 hundred twenty-five new full-time jobs at the project;

13 (ii) in the case of a single sponsor investing at least four  
14 hundred million dollars in this State;

15 (iii) in the case of a project that satisfies the  
16 requirements of Section 11-41-30(2)(a), and for which the  
17 Secretary of Commerce has delivered certification pursuant to  
18 Section 11-41-70(2)(a).

19 For purposes of this item, if a single sponsor enters into a  
20 financing arrangement of the type described in Section  
21 4-29-67(O)(2), the investment in or financing of the property by a  
22 developer, lessor, financing entity, or other third party in  
23 accordance with this arrangement is considered investment by the  
24 sponsor. Investment by a related person to the sponsor, as  
25 described in Section 12-10-80(D)(2), is considered investment by  
26 the sponsor.

27 (b) The new full-time jobs requirement of this item does  
28 not apply in the case of a business that paid more than fifty percent  
29 of all property taxes actually collected in the county for more than  
30 the twenty-five years ending on the date of the lease agreement.

31 (c) In an instance in which the governing body of a county  
32 has provided, by contractual agreement, for a change in fee in lieu  
33 of taxes arrangements conditioned on a future legislative  
34 enactment, a new enactment does not bind the original parties to  
35 the agreement unless the change is ratified by the governing body  
36 of the county.

37 (5) Notwithstanding the use of the term "assessment ratio", a  
38 sponsor qualifying for the fee may negotiate an inducement  
39 agreement with a county using differing assessment ratios for  
40 different assessment years or levels of investment covered by the  
41 inducement agreement. The lowest assessment ratio allowed is the  
42 lowest ratio for which the sponsor may qualify under this section.

1 (E) Calculations pursuant to subsection (D)(2) must be made  
2 on the basis that the property, if taxable, is allowed all applicable  
3 property tax exemptions except the exemption allowed pursuant to  
4 Section 3(g) of Article X of the Constitution of this State and the  
5 exemptions allowed pursuant to Section 12-37-220(B)(32) and  
6 (34).

7 (F) With regard to calculation of the fee provided in subsection  
8 (D)(2), the inducement agreement may provide for the disposal of  
9 property and the replacement of property subject to the fee as  
10 follows:

11 (1) If a sponsor disposes of property subject to the fee, the  
12 fee must be reduced by the amount of the fee applicable to that  
13 property. Property is disposed of only when it is scrapped or sold  
14 or removed from the project. If it is removed from the project, it  
15 becomes subject to ad valorem property taxes to the extent it  
16 remains in the State. If the sponsor used any method to compute  
17 the fee other than that provided in subsection (D)(2)(a), the fee on  
18 the property which was disposed of must be recomputed in  
19 accordance with subsection (D)(2)(a) and to the extent the amount  
20 that would have been paid pursuant to subsection (D)(2)(a)  
21 exceeds the fee actually paid by the sponsor, the sponsor must pay  
22 the difference with the next fee payment due after the property is  
23 disposed of. If the sponsor used the method provided in subsection  
24 (D)(2)(c), the millage rate provided in subsection (D)(2)(c) must  
25 be used to calculate the amount which would have been paid  
26 pursuant to subsection (D)(2)(a). If there is no provision in the  
27 agreement dealing with the disposal of property in accordance with  
28 this subsection, the fee remains fixed and no adjustment to the fee  
29 is allowed for disposed property.

30 (2) Property placed in service as a replacement for property  
31 that is subject to the fee payment may become part of the fee  
32 payment as provided in this item:

33 (a) Replacement property may have a function that differs  
34 from the property it is replacing. Replacement property is  
35 considered to replace the oldest real or personal property subject to  
36 the fee and disposed of in the same property tax year as the  
37 replacement property is placed in service. Replacement property  
38 qualifies for fee treatment provided in subsection (D)(2) only up to  
39 the original income tax basis of fee property it replaces. More than  
40 one piece of replacement property may replace a single piece of  
41 fee property. To the extent that the income tax basis of the  
42 replacement property exceeds the original income tax basis of the  
43 property it replaces, the excess amount is subject to payments as

1 provided in Section 4-29-60. Replacement property is entitled to  
2 the fee payment for the period of time remaining on the  
3 twenty-year fee period for the property it replaces.

4 (b) The new replacement property that qualifies for the fee  
5 provided in subsection (D)(2) is recorded using its income tax  
6 basis, and the fee is calculated using the millage rate and  
7 assessment ratio provided on the original fee property. The fee  
8 payment for replacement property must be based on subsection  
9 (D)(2)(a) or (c) if the investor originally used that method, without  
10 regard to present value.

11 (c) To qualify as replacement property, title to the  
12 replacement property must be held by the county.

13 (d) If there is no provision in the inducement agreement  
14 dealing with replacement property, any property placed in service  
15 after the time period allowed for investments as provided by  
16 subsection (C)(2), is subject to the payments required by Section  
17 4-29-60 if the county has title to the property or ad valorem  
18 property taxes, if the sponsor has title to the property.

19 (G)(1) The county and the sponsor may enter into a millage rate  
20 agreement to establish the millage rate for purposes of calculating  
21 payments pursuant to subsection (D)(2)(a) and the first five years  
22 pursuant to subsection (D)(2)(c). This millage rate agreement may  
23 be executed at any time up to and including, but not later than, the  
24 date of the initial lease agreement. This millage rate agreement  
25 may be a separate agreement or may be made a part of either the  
26 inducement agreement or the initial lease agreement.

27 (2) The millage rate established pursuant to item (1) of this  
28 subsection must be no lower than the cumulative property tax  
29 millage rate levied by or on behalf of all taxing entities within  
30 which the project is to be located on either:

31 (a) June thirtieth of the year preceding the year in which  
32 the millage rate agreement is executed or the initial lease  
33 agreement is executed if no millage rate agreement is executed; or

34 (b) June thirtieth of the year in which the millage rate  
35 agreement is executed if a millage rate agreement is not executed  
36 the lease agreement is deemed to be the millage rate agreement for  
37 purposes of this item.

38 (H)(1) Upon agreement of the parties, and except as provided in  
39 subsection (H)(2), an inducement agreement, a millage rate  
40 agreement, or both, may be amended or terminated and replaced  
41 with regard to all matters including, but not limited to, the addition  
42 or removal of sponsors or sponsor affiliates.



1 (2) An amendment or a replacement of an inducement  
2 agreement or millage rate agreement may not be used to lower the  
3 millage rate, discount rate, assessment ratio, or, except as provided  
4 in Sections 4-29-67(C)(2) and (C)(4) increase the term of the  
5 agreement; except that an existing inducement agreement that has  
6 not been implemented by the execution and delivery of a millage  
7 rate agreement or a lease agreement may be amended up to the  
8 date of execution and delivery of a millage rate agreement or a  
9 lease agreement in the discretion of the governing body.

10 (I) Investment expenditures incurred by a sponsor in  
11 connection with the project, or relevant phase of a project, for a  
12 project completed and placed in service in more than one year,  
13 qualify as expenditures subject to the fee in subsection (D)(2), so  
14 long as these expenditures are incurred before the end of the  
15 applicable five-year, eight-year, ten-year, or fifteen-year period  
16 referenced in subsection (C)(2) or (3). An inducement agreement  
17 must be executed within two years after the date the county adopts  
18 an inducement resolution; otherwise, only investment  
19 expenditures made or incurred by a sponsor after the date of the  
20 inducement agreement in connection with a project qualify as  
21 expenditures subject to the fee in subsection (D)(2).

22 (J) Subject to subsection (K), project expenditures incurred  
23 within the applicable time period provided in subsection (I) by an  
24 entity whose investments are not computed at the level of  
25 investment for purposes of subsection (B) or (C) qualify as  
26 investment expenditures subject to the fee in subsection (D)(2) if  
27 the:

28 (a) expenditures are part of the original cost of property  
29 that is transferred, within the applicable time period provided in  
30 subsection (I) to one or more other investors or investor affiliates  
31 whose investments are being computed at the level of investment  
32 for purposes of subsection (B) or (C);

33 (b) property would have qualified for the fee in subsection  
34 (D)(2) if it had been initially acquired by the sponsor instead of the  
35 transferor entity;

36 (c) the income tax basis of the property immediately  
37 before the transfer equal the income tax basis of the property  
38 immediately after the transfer; except that, to the extent income  
39 tax basis of the property immediately after the transfer  
40 unintentionally exceeds the income tax basis of the property  
41 immediately before the transfer, the excess is subject to payments  
42 pursuant to Section 4-29-60;

1 (d) the county agrees to an inclusion in the fee of the  
2 property described in subsection (J)(1).

3 (K)(1) Property previously subject to property taxes in South  
4 Carolina does not qualify for the fee except as provided in this  
5 subsection:

6 (a) land, excluding improvements on it, on which a new  
7 project is located may qualify for the fee even if it has previously  
8 been subject to South Carolina property taxes;

9 (b) property that has been subject previously to South  
10 Carolina property taxes, but has never been placed in service in  
11 South Carolina, may qualify for the fee; and

12 (c) property placed in service in South Carolina and  
13 subject to South Carolina property taxes that is purchased in a  
14 transaction other than between any of the entities specified in  
15 Section 267(b) of the Internal Revenue Code, as defined pursuant  
16 to Chapter 6 of Title 12 as of the time of the transfer, may qualify  
17 for the fee if the sponsor invests at least an additional forty-five  
18 million dollars in the project.

19 (2) Repairs, alterations, or modifications to real or personal  
20 property which are not subject to a fee are not eligible for a fee,  
21 even if they are capitalized expenditures, except for modifications  
22 to existing real property improvements constituting an expansion  
23 of the improvements.

24 (L)(1) For a project not located in an industrial development  
25 park as defined in Section 4-1-170, distribution of the fee in lieu of  
26 taxes on the project must be made in the same manner and  
27 proportion that the millage levied for school and other purposes  
28 would be distributed if the property were taxable but without  
29 regard to exemptions otherwise available to a project pursuant to  
30 Section 12-37-220 for that year.

31 (2) For a project located in an industrial development park as  
32 defined in Section 4-1-170, distribution of the fee in lieu of taxes  
33 on the project must be made in the manner provided for by the  
34 agreement establishing the industrial development park.

35 (3) A county or municipality or special purpose district that  
36 receives and retains revenues from a payment in lieu of taxes may  
37 use a portion of this revenue for the purposes outlined in Section  
38 4-29-68 without the requirement of issuing special source revenue  
39 bonds or the requirements of Section 4-29-68(A)(4) by providing a  
40 credit against or payment derived from the fee due from the  
41 sponsor.

42 (4) Misallocations of the distribution of the fee in lieu of  
43 taxes on the project pursuant to this chapter may be corrected by

1 adjusting later distributions, but these adjustments must be made in  
2 the same fiscal year as the misallocations. To the extent  
3 distributions are made improperly in prior years, a claim for  
4 adjustment must be made within one year of the distribution.

5 (M) As a directly foreseeable result of negotiating the fee, gross  
6 revenue of a school district in which a project is located in any  
7 year a fee negotiated pursuant to this section is paid may not be  
8 less than gross revenues of the district in the year before the first  
9 year for which a fee in lieu of taxes is paid. In negotiating the fee,  
10 the parties shall assume that the formulas for the distribution of  
11 state aid at the time of the execution of the inducement agreement  
12 must remain unchanged for the duration of the lease agreement.

13 (N) Projects on which a fee in lieu of taxes is paid pursuant to  
14 this section are considered taxable property at the level of the  
15 negotiated payments for purposes of bonded indebtedness pursuant  
16 to Sections 14 and 15 of Article X of the Constitution of this State,  
17 and for purposes of computing the index of taxpaying ability  
18 pursuant to Section 59-20-20(3). However, for a project located in  
19 an industrial development park as defined in Section 4-1-170,  
20 projects are considered taxable property in the manner provided in  
21 Section 4-1-170 for purposes of bonded indebtedness pursuant to  
22 Sections 14 and 15 of Article X of the Constitution of this State,  
23 and for purposes of computing the index of taxpaying ability  
24 pursuant to Section 59-20-20(3). Provided, however, that the  
25 computation of bonded indebtedness limitation is subject to the  
26 requirements of Section 4-29-68(E).

27 (O)(1) An interest in an inducement agreement, millage rate  
28 agreement, and lease agreement, and property to which these  
29 agreements relate, may be transferred to another entity at any time.  
30 Notwithstanding another provision of this chapter, an equity  
31 interest in a sponsor or sponsor affiliate may be transferred to  
32 another entity or person at any time. To the extent an agreement is  
33 transferred, the transferee assumes the current basis the sponsor  
34 has in the property subject to the fee for purposes of calculating the  
35 fee.

36 (2) A sponsor or county may enter into a lending, financing,  
37 security, lease, or similar arrangement, or succession of such  
38 arrangements, with a financing entity, concerning all or part of a  
39 project including, without limitation, a sale-leaseback arrangement,  
40 equipment lease build-to-suit-lease, synthetic lease, Nordic lease,  
41 defeased tax benefit, transfer lease, assignment, sublease, or  
42 similar arrangement, or succession of such arrangements, with one  
43 or more financing entities, concerning all or part of a project,

1 regardless of the identity of the income tax owner of the property  
2 which is subject to the fee payment pursuant to subsection (D)(2).  
3 Even though income tax basis is changed for income tax purposes,  
4 neither the original transfer to the financing entity nor the later  
5 transfer from the financing entity back to the original sponsor  
6 pursuant to terms in the sale-leaseback agreement, affects the  
7 amount of the fee due.

8 (3) A transfer undertaken with respect to other projects to  
9 effect a financing authorized by subsection (O) must meet the  
10 following requirements:

11 (a) The department and the county shall receive written  
12 notification, within sixty days after the transfer, of the identity of  
13 each transferee and other information required by the department  
14 with the appropriate returns. Failure to meet this notice  
15 requirement does not affect adversely the fee, but a penalty up to  
16 ten thousand dollars a year or portion of a year up to a maximum  
17 penalty of fifty thousand dollars may be assessed by the  
18 department for late notification.

19 (b) If the financing entity is the income tax owner of  
20 property, either the financing entity is primarily liable for the fee  
21 as to that portion of the project to which the transfer relates with  
22 the sponsor remaining secondarily liable for the payment of the fee  
23 or the sponsor agrees to be primarily liable for the payment of the  
24 fee as to that portion of the project to which the transfer relates.

25 (4) A sponsor may transfer an inducement agreement,  
26 millage rate agreement, lease agreement, or the assets subject to  
27 the lease agreement, if it obtains the prior approval, or subsequent  
28 ratification, of the county with which it entered into the original  
29 agreement. The county's prior approval or subsequent ratification  
30 may be evidenced by any one of the following, in the absolute and  
31 sole discretion of the county providing the approval or ratification:

32 (i) a letter or other writing executed by an authorized county  
33 representative as designated in the respective inducement, millage  
34 rate, or lease agreement; (ii) a resolution passed by the county  
35 council; or (iii) an ordinance passed by the county council  
36 following three readings and a public hearing. That approval is not  
37 required in connection with transfers to sponsor affiliates or other  
38 financing-related transfers.

39 (P) An inducement agreement, a millage rate agreement, or a  
40 lease agreement, or the rights of a sponsor or sponsor affiliate  
41 pursuant to that agreement including, without limitation, the  
42 availability of the subsection (D)(2) fee, may not be affected  
43 adversely if the bonds issued pursuant to that agreement are

1 purchased by one or more of the entities that are or become  
2 sponsor or sponsor affiliates.

3 (Q) Except as provided in subsection (B)(4)(a), if a sponsor  
4 fails to make the minimum investment required by subsection  
5 (D)(2) or an investment under subsection (D)(4) if applicable,  
6 within the time provided in subsection (C)(2), then the sponsor is  
7 entitled to the benefits of Chapter 12 of this title if and to the  
8 extent allowed pursuant to an applicable agreement between the  
9 sponsor and the county, and if the requirements of subsection  
10 (B)(4)(a) are satisfied. Otherwise, the fee provided in subsection  
11 (D)(2) or (D)(4) is no longer available and the sponsor must make  
12 the payments due pursuant to Section 4-29-60 for the remainder of  
13 the lease period.

14 (R) The minimum amount of the initial investment provided in  
15 subsection (B)(3) of this section may not be reduced except by a  
16 special vote which, for purposes of this section, means an  
17 affirmative vote in each branch of the General Assembly by  
18 two-thirds of the members present and voting, but not less than  
19 three-fifths of the total membership in each branch.

20 (S)(1) The sponsor shall file the returns, contracts, and other  
21 information that may be required by the department.

22 (2) Fee payments, and returns showing investments and  
23 calculating fee payments, are due at the same time as property tax  
24 payments and property tax returns would be due if the property  
25 were owned by the sponsor obligated to make the fee payments  
26 and file such returns.

27 (3) Failure to make a timely fee payment and file required  
28 returns results in penalties being assessed as if the payment or  
29 return were a property tax payment or return.

30 (4) The department may issue rulings and promulgate  
31 regulations necessary or appropriate to carry out the purpose of  
32 this section.

33 (5) The provisions of Chapters 4 and 54 of Title 12,  
34 applicable to property taxes, apply to this section, and, for  
35 purposes of that application, the fee is considered a property tax.  
36 Sections 12-54-20, 12-54-80, and 12-54-155 do not apply to this  
37 section.

38 (6) Within thirty days of the date of execution of an  
39 inducement or lease agreement, a copy of the agreement must be  
40 filed with the department and the county auditor and the county  
41 assessor for every county in which the project is located. If the  
42 project is located in an industrial development park, the

1 agreements must be filed with the auditors and assessors for all  
2 counties participating in the industrial development park.

3 (7) The department, for good cause, may allow additional  
4 time for filing of returns required under this section. The request  
5 for an extension may be granted only if the request is filed with the  
6 department on or before the date the return is due. However, the  
7 extension must not exceed sixty days from the date the return is  
8 due. The department shall develop applicable forms and  
9 procedures for handling and processing extension requests. An  
10 extension may not be granted to a sponsor who has been granted  
11 an extension for a previous period and has not fulfilled the  
12 requirements of the previous period.

13 (8) To the extent a form or return is filed with the  
14 department, the sponsor must file a copy of the form or return with  
15 the county auditor, assessor, and treasurer of the county or counties  
16 in which the project is physically located. To the extent requested,  
17 the county auditor of the county in which the project is physically  
18 located shall make these forms and returns available to any county  
19 auditor of a county participating in an industrial development park  
20 in which the project is located.

21 (T) Except as otherwise expressly provided in subsection  
22 (C)(2), a loss of fee benefits pursuant to this section is prospective  
23 only from the date of noncompliance and, subject to subsection  
24 (Q), only with respect to that portion of the project to which the  
25 noncompliance relates; except that the loss of fee benefits may not  
26 result in the recovery from the sponsor of fee payments for more  
27 than:

28 (1) three years from the date a return concerning the fee is  
29 filed for the time period during which the noncompliance occurs.  
30 A showing of bad faith noncompliance increases the three-year  
31 period to a ten-year period; or

32 (2) ten years if a return is not filed for the time period during  
33 which the noncompliance occurs.

34 (U) Section 4-29-65 does not apply to this section. All  
35 references in this section to taxes mean South Carolina taxes  
36 unless otherwise expressly stated.

37 (V)(1) Notwithstanding another provision of this section, in the  
38 case of a project consisting of a qualified recycling facility, the  
39 annual fee is available for no more than thirty years, and for those  
40 projects constructed or placed in service during a period of more  
41 than one year, the annual fee is available for a maximum of forty  
42 years.

1 (2) Notwithstanding another provision of this section, for a  
2 qualified recycling facility, the assessment ratio must be at least  
3 three percent.

4 (3) Any machinery and equipment foundations, port  
5 facilities, or railroad track systems used, or to be used, for a  
6 qualified recycling facility is considered tangible personal  
7 property.

8 (4) Notwithstanding subsections (F) and (I) of this section,  
9 the total costs of all investments made for a qualified recycling  
10 facility are eligible for fee payments as provided in this section.

11 (5) For purposes of fees that may be due on undeveloped  
12 property for which title has been transferred to the county by or for  
13 the owner or operator of a qualified recycling facility, the  
14 assessment ratio is three percent.

15 (6) Notwithstanding subsection (D)(2)(b) of this section, in  
16 the case of a qualified recycling facility, net present value  
17 calculations performed pursuant to that subsection must use a  
18 discount rate equivalent to the yield in effect for new or existing  
19 United States Treasury bonds of similar maturity as published on  
20 any day selected by the sponsor during the year in which assets are  
21 placed into service or in which the inducement agreement is  
22 executed.

23 (7) As used in this subsection, 'qualified recycling facility'  
24 and 'investment' have the meaning provided in Section  
25 12-7-1275(A).

26 (W)(1) Notwithstanding subsection (C)(1), in the case of a  
27 qualified nuclear plant facility, the sponsor has five years from the  
28 end of the calendar year in which the Nuclear Regulatory  
29 Commission grants the sponsor a combined license to construct  
30 and operate a nuclear power plant to enter into an initial lease  
31 agreement with the county but in no event more than fifteen years  
32 from the latter of the adoption of an inducement resolution or  
33 execution of an inducement agreement by the county.

34 (2) Notwithstanding subsection (C)(2)(d), in the case of a  
35 qualified nuclear plant facility, the sponsor has fifteen years from  
36 the end of the calendar year in which the initial lease agreement is  
37 executed to meet the minimum investment and fifteen years from  
38 the end of the calendar year in which the first piece of property is  
39 placed into service to complete the project.

40 (WX)(1) All agreements entered into pursuant to this section  
41 must include as the first portion of the document a recapitulation of  
42 the remaining contents of the document which includes, but is not  
43 limited to, the following:

1 (a) the legal name of each party to the agreement;  
2 (b) the county and street address of the project and  
3 property to be subject to the agreement;  
4 (c) the minimum investment agreed upon;  
5 (d) the length and term of the agreement;  
6 (e) the assessment ratio applicable for each year of the  
7 agreement;  
8 (f) the millage rate applicable for each year of the  
9 agreement;  
10 (g) a schedule showing the amount of the fee and its  
11 calculation for each year of the agreement;  
12 (h) a schedule showing the amount to be distributed  
13 annually to each of the affected taxing entities;  
14 (i) a statement answering the following questions:  
15 (i) Is the project to be located in a multi-county park  
16 formed pursuant to Chapter 29 of Title 4?  
17 (ii) Is disposal of property subject to the fee allowed?  
18 (iii) Will special source revenue bonds be issued or  
19 credits for infrastructure investment be allowed in connection with  
20 this project?  
21 (iv) Will payment amounts be modified using a net  
22 present value calculation?; and  
23 (v) Do replacement property provisions apply?  
24 (j) any other feature or aspect of the agreement which may  
25 affect the calculation of subitems (g) and (h) of this item;  
26 (k) a description of the effect upon the schedules required  
27 by subitems (g) and (h) of this item of any feature covered by  
28 subitems (i) and (j) not reflected in the schedules for subitems (g)  
29 and (h);  
30 (l) which party or parties to the agreement are responsible  
31 for updating any information contained in the summary document.  
32 (2) The auditor shall prepare a bill for each installment of  
33 the fee according to the schedule set forth in subitem (1)(g) or as  
34 modified pursuant to subitem (1)(j), (k), or (l) and that payment  
35 must be distributed to the affected taxing entities according to the  
36 schedule in subitem (1)(g) or as modified pursuant to subitem  
37 (1)(j), (k), or (l).  
38 (3) The county and the sponsor and sponsor affiliates may  
39 agree to waive any or all of the items described in this subsection.”  
40  
41 SECTION 7. Section 4-29-68(A)(2) of the 1976 Code, as last  
42 amended by Act 116 of 2007, is further amended to read:  
43



1 “(2) The bonds are issued for the purpose of paying the cost of  
2 designing, acquiring, constructing, improving, or expanding (a) the  
3 infrastructure serving the issuer or the project, (b) for improved or  
4 unimproved real estate and personal property including machinery  
5 and equipment used in the operation of a manufacturing or  
6 commercial enterprise, or (c) aircraft which qualifies as a project  
7 pursuant to Section 12-44-30(16), which property is determined by  
8 the issuer to enhance the economic development of the issuer.  
9 Costs of issuance of the bonds also may be paid from bond  
10 proceeds. Bonds issued pursuant to this section to finance the  
11 acquisition of real or personal property may be additionally  
12 secured by a mortgage of that real or personal property.”  
13

14 SECTION 8.A. Title 11 of the 1976 Code is amended by adding:  
15

16 “CHAPTER 18  
17

18 South Carolina Federal Recovery Zone Bond Reallocation and  
19 Issuance of Recovery Zone Bonds  
20

21 Section 11-18-100. (A) The General Assembly finds and  
22 determines that Sections 1400U-2 and 1400U-3 of the American  
23 Recovery and Reinvestment Act of 2009 (ARRA) added two new  
24 types of bonds as recovery zone bonds:

25 (1) A new type of exempt facility bond called ‘recovery  
26 zone facility bonds’ to be used to finance construction, renovation,  
27 and equipping of recovery zone property for use in any trade or  
28 business in a recovery zone, all as defined in ARRA; and

29 (2) A new type of governmental bond called ‘recovery zone  
30 economic development bonds’.

31 (B) The ARRA provides a formula for allocation of authority to  
32 issue recovery zone facility bonds and recovery zone economic  
33 development bonds to the states and by the states to the counties  
34 and large municipalities in the states. The United States  
35 Department of the Treasury, Internal Revenue Service provided for  
36 recovery zone bond volume cap allocations under IRS Notice  
37 2009-50 and provided calculations for individual counties and  
38 large municipalities on that same date. The notice made specific  
39 provision for reallocation of the volume cap allocations that are  
40 waived or deemed waived by a county or municipality by giving  
41 the state in which such county or municipality is located the  
42 authority to reallocate the waived volume cap in any reasonable  
43 manner as it shall determine in good faith in its discretion.

1 (C) Because of several factors, including the relatively small  
2 amounts of some of the initial allocations, limitations on legal  
3 borrowing capacity affecting counties and large municipalities and  
4 the lack of access to borrowing by possible beneficiaries of  
5 recovery zone facilities bonds, very little of the allocations of  
6 recovery zone bonds have been issued in South Carolina.

7 (D) Recovery zone bonds are a valuable resource to the State in  
8 its efforts to revitalize the economy of the State and provide  
9 additional employment all to the promotion of the health and  
10 welfare of the citizens of the State.

11 (E) It is in the best interests of the State to provide a procedure  
12 for determining when counties or large municipalities have waived  
13 their allocations and to provide for the reallocation of such waived  
14 allocations. This chapter is designed to provide such procedures.

15 (F) Recovery zone facilities bonds are defined in the ARRA as  
16 bonds substantially all of the proceeds of which are used for  
17 recovery zone property. The definition of recovery zone property  
18 includes facilities that may not currently be authorized under the  
19 State's private activity bond enabling statutes. These projects will  
20 provide much needed employment and it is the best interest of the  
21 health and welfare of the citizens of the State to provide  
22 authorization for bonds to finance recovery zone property.

23  
24 Section 11-18-110. The South Carolina Recovery Zone Bonds  
25 Allocation Committee, hereinafter referred to as the 'Committee',  
26 is hereby established. The committee shall consist of three  
27 members: the State Treasurer, the Executive Director of the South  
28 Carolina Jobs-Economic Development Authority, and the Director  
29 of the Office of Local Government of the State Budget and Control  
30 Board or their designees. The State Treasurer shall serve as  
31 chairman of the committee. The committee shall convene for an  
32 initial meeting within fifteen days of the effective date of this  
33 chapter.

34  
35 Section 11-18-120. The committee shall establish a method for  
36 determining when a county or large municipality has waived all or  
37 part of its initial allocation of recovery zone bonds and manage the  
38 reallocation all such waived allocations.

39  
40 Section 11-18-130. (A) In determining when a county or large  
41 municipality has waived all or part of its initial allocation of  
42 recovery zone bonds, the committee shall provide that if it has not  
43 received a notice in such manner as the committee determines by

1 August 1, 2010, from a county or municipality that had an initial  
2 allocation, such allocation shall be waived.

3 (B) For any portion of an allocation not waived by August 1,  
4 2010, the committee may require that the county or large  
5 municipality retaining such allocation provide evidence  
6 satisfactory to the committee that the allocation will be used.

7 (C) The proof in the case of economic development bonds may  
8 consist of

9 (1) proof by resolution or otherwise of the designation of a  
10 recovery zone;

11 (2) a resolution authorizing the issuance of bonds or  
12 approving such other financing as may be done accompanied by a  
13 statement that the county or large municipality has the legal ability  
14 to effect such issuance or borrowing;

15 (3) an opinion of counsel that the project to be financed is a  
16 qualified economic development purpose as provided for in  
17 Section 1400U-2(c) of the ARRA;

18 (4) a schedule for the closing of the issue which must not be  
19 later than October 1, 2010; and

20 (5) other documentation as the committee deems  
21 appropriate.

22 (D) Failure to close by October 1, 2010, shall constitute a  
23 waiver of such allocation unless the committee extends the time to  
24 close.

25 (E) Proof in the case of facilities bonds may consist of

26 (1) proof by resolution or otherwise of the designation of a  
27 recovery zone;

28 (2) a resolution authorizing the issuance of bonds or  
29 approving other financing as may be done accompanied by a  
30 statement that the county or large municipality has the legal ability  
31 to effect issuance or borrowing.;

32 (3) a schedule for the closing of the issue which must not be  
33 later than October 1, 2010;

34 (4) an opinion of counsel that the project to be financed  
35 qualifies as qualified recovery zone property as provided in  
36 Section 1400U-3(c) of the ARRA;

37 (5) proof from the beneficiary of bonds that it has access to  
38 financing which may be a commitment letter from a bank or  
39 verification that the beneficiary has an investment grade credit  
40 rating for itself or by means of a guarantee; and

41 (6) other documentation as the committee deems  
42 appropriate.

1 (F) Failure to close by October 1, 2010 shall constitute a  
2 waiver of allocation unless the committee extends the time to  
3 close.

4  
5 Section 11-18-140. (A) By no later than August 15, 2010, the  
6 committee must develop a form for application by counties and  
7 municipalities for reallocation of any recovery zone bond  
8 allocations that have been waived. Applications for reallocation  
9 may be accepted at any time. The committee may make  
10 reallocations as soon as it determines that there is a waiver of any  
11 initial allocation or that any allocation or reallocation has been  
12 waived.

13 (B) Reallocations of recovery zone economic development  
14 bonds shall be based on recommendations from the director of the  
15 Office of Local Government of the State Budget Control Board.  
16 Any recommendation will become final ten days after the State  
17 Treasurer transmits the recommendation to the other members of  
18 the committee unless the committee meets and revises the  
19 recommendation within the ten-day period.

20 (C) Reallocations of recovery zone facilities bonds shall be  
21 based on recommendations from the executive director of the  
22 South Carolina Jobs-Economic Development Authority. Any  
23 recommendation will become final ten days after the executive  
24 director transmits the recommendation to the other members of the  
25 committee unless the committee meets and revises the  
26 recommendation within the ten-day period.

27 (D) In making reallocations, the committee may consider the  
28 following factors:

- 29 (1) the likelihood of successful completion of financing;  
30 (2) the number of jobs to be created or preserved;  
31 (3) the wages for the jobs;  
32 (4) in the case of economic development bonds, the public  
33 benefits to be derived; and  
34 (5) that the proposed use of recovery zone bond allocation is  
35 in the best interests of the State.

36 (E) Upon making any reallocation, the committee must  
37 establish procedures similar to those set forth above respecting  
38 initial allocations relating to the waiver of an original allocation.  
39 However, the time periods may be made shorter or longer as the  
40 committee determines, all with the goal of making use of recovery  
41 zone bond allocations to the State prior to the end of 2010.

42

1 Section 11-18-150. The purpose of this chapter is ensure that  
2 the allocation of recovery zone bonds to the State is used. To that  
3 end, the committee is authorized and directed to make exceptions  
4 and waivers or extend or shorten time requirements as it deems  
5 most likely to effect the purposes hereof.

6  
7 Section 11-18-160. In order to make the maximum use of the  
8 authorization for recovery zone bonds, any bond enabling act  
9 which specifies particular projects or users is hereby amended to  
10 provide that any recovery zone property as defined in Section  
11 1400U-3(b) of the ARRA will be deemed to qualify as a project.  
12 Accordingly any person engaged in a qualified business as defined  
13 in Section 1400U-3(b)(2) of the ARRA will be permitted as  
14 beneficiary of any such bonds.”

15  
16 B. Section 4-29-10(3) of the 1976 Code, as last amended by 89 of  
17 2001, is further amended to read:

18  
19 “(3) ‘Project’ means any land and any buildings and other  
20 improvements on the land including, without limiting the  
21 generality of the foregoing, water, sewage treatment and disposal  
22 facilities, air pollution control facilities, and all other machinery,  
23 apparatus, equipment, office facilities, and furnishings which are  
24 considered necessary, suitable, or useful by the following investors  
25 or any combination of them:

26 (a) any enterprise for the manufacturing, processing, or  
27 assembling of any agricultural or manufactured products;

28 (b) any commercial enterprise engaged in storing,  
29 warehousing, distributing, transporting, or selling products of  
30 agriculture, mining, or industry, or engaged in providing laundry  
31 services to hospitals, to convalescent homes, or to medical  
32 treatment facilities of any type, public or private, within or outside  
33 of the issuing county or incorporated municipality and within or  
34 outside of the State;

35 (c) any enterprise for research in connection with any of the  
36 foregoing or for the purpose of developing new products or new  
37 processes or improving existing products or processes;

38 (d) any enterprise engaged in commercial business  
39 including, but not limited to, wholesale, retail, or other mercantile  
40 establishments; residential and mixed use developments of two  
41 thousand five hundred acres or more; office buildings; computer  
42 centers; tourism, sports, and recreational facilities; convention  
43 and trade show facilities; and public lodging and restaurant

1 facilities if the primary purpose is to provide service in connection  
2 with another facility qualifying under this subitem; and

3 (e) any enlargement, improvement, or expansion of any  
4 existing facility in subitems (a), (b), (c), and (d) of this item.

5 The term 'project' does not include facilities for an enterprise  
6 primarily engaged in the sale or distribution to the public of  
7 electricity, gas, or telephone services. A project may be located in  
8 one or more counties or incorporated municipalities. The term  
9 'project' also includes any structure, building, machinery, system,  
10 land, interest in land, water right, or other property necessary or  
11 desirable to provide facilities to be owned and operated by any  
12 person, firm, or corporation for the purpose of providing drinking  
13 water, water, or wastewater treatment services or facilities to any  
14 public body, agency, political subdivision, or special purpose  
15 district. This definition is for purposes of industrial revenue bonds  
16 only.

17 Notwithstanding another provision hereof, the term 'project'  
18 shall include any recovery zone property as defined in Section  
19 1400U-3(b) of the American Recovery and Reinvestment Act of  
20 2009. No restriction herein relating to the user or use of a project  
21 shall apply to any recovery zone property."

22

23 SECTION 9. Section 12-6-530 of the 1976 Code is amended to  
24 read:

25

26 "Section 12-6-530. (A) An income tax is imposed annually at  
27 the rate of five percent on the South Carolina taxable income of  
28 every corporation, other than those described in Sections 12-6-540  
29 and 12-6-550, and any other entity taxed using the rates of a  
30 corporation for federal income tax purposes, transacting,  
31 conducting, or doing business within this State or having income  
32 within this State, regardless of whether these activities are carried  
33 on in intrastate, interstate, or foreign commerce. The terms  
34 'transacting', 'conducting', and 'doing business' include  
35 transacting or engaging in any activity for the purpose of financial  
36 profit or gain.

37 (B) Beginning with the year 2011, the corporate income tax  
38 rate of five percent annually imposed by this section is reduced by  
39 one-half percent per year until the rate reaches zero for the year  
40 2020 and thereafter."

41

42 SECTION 10. Section 12-6-3360 of the 1976 Code, as last  
43 amended by Act 116 of 2007, is further amended to read:

1  
2 "Section 12-6-3360. (A) Taxpayers that operate  
3 manufacturing, tourism, processing, warehousing, distribution,  
4 research and development, corporate office, qualifying  
5 service-related facilities, extraordinary retail establishment, and  
6 qualifying technology intensive facilities, ~~and banks as defined~~  
7 pursuant to this title are allowed an annual jobs tax credit as  
8 provided in this section. In addition, taxpayers that operate retail  
9 facilities and service-related industries qualify for an annual jobs  
10 tax credit in counties designated as ~~least developed or distressed,~~  
11 ~~and in counties that are under developed and not traversed by an~~  
12 ~~interstate highway. As used in this section, "corporate office"~~  
13 ~~includes general contractors licensed by the South Carolina~~  
14 ~~Department of Labor, Licensing and Regulation Tier V.~~ Credits  
15 pursuant to this section may be claimed against income taxes  
16 imposed by Section 12-6-510 or 12-6-530, ~~bank taxes imposed~~  
17 ~~pursuant to Chapter 11 of this title, and insurance premium taxes~~  
18 ~~imposed pursuant to Chapter 7 of, Title 38, and are limited in use~~  
19 ~~to fifty percent of the taxpayer's South Carolina income tax, bank~~  
20 ~~tax, or insurance premium tax liability. In computing a tax payable~~  
21 ~~by a taxpayer pursuant to Section 38-7-90, the credit allowable~~  
22 ~~pursuant to this section must be treated as a premium tax paid~~  
23 ~~pursuant to Section 38-7-20.~~  
24 (B) The department shall rank and designate the state's  
25 counties by December thirty-first each year using data from the  
26 South Carolina Employment Security Commission and the United  
27 States Department of Commerce. The county designations are  
28 effective for taxable years that begin in the following calendar  
29 year. ~~A county's designation may not be lowered in credit amount~~  
30 ~~more than one tier in the following calendar year.~~ The counties are  
31 ranked using the last three completed calendar years of per capita  
32 income data and the last thirty-six months of unemployment rate  
33 data that are available on November first, with equal weight given  
34 to unemployment rate and per capita income as follows:  
35 (1)(a) The twelve counties with a combination of the highest  
36 unemployment rate and lowest per capita income are designated  
37 ~~distressed Tier V~~ counties. Notwithstanding any other provision of  
38 law, no more than twelve counties may be designated or classified  
39 as ~~distressed Tier V~~ and notwithstanding any other provision of  
40 this section, a county may be designated as ~~distressed Tier V~~ only  
41 by virtue of the criteria provided in this subitem.  
42 (b) A category with the same criteria as provided in  
43 subitem (a) of this item is designated ~~least developed Tier IV~~

1 county which consists of ~~underdeveloped~~ Tier III counties  
2 otherwise eligible for this category.

3 (2) The twelve counties with a combination of the next  
4 highest unemployment rate and next lowest per capita income are  
5 designated ~~underdeveloped~~ Tier III counties.

6 (3) The eleven counties with a combination of the next  
7 highest unemployment rate and the next lowest per capita income  
8 are designated ~~moderately developed~~ Tier II counties.

9 (4) The eleven counties with a combination of the lowest  
10 unemployment rate and the highest per capita income are  
11 designated ~~developed~~ Tier I counties.

12 ~~(5)(a) A county, any portion of which is located within~~  
13 ~~twenty-five miles of the boundaries of an applicable military~~  
14 ~~installation or applicable federal facility as defined in Section~~  
15 ~~12-6-3450(1), shall receive the next increased credit designation~~  
16 ~~for five years beginning with the year in which the military~~  
17 ~~installation or federal facility became an applicable military~~  
18 ~~installation or applicable federal facility as defined in Section~~  
19 ~~12-6-3450(1), with the additional requirement that the military~~  
20 ~~installation must have reduced employment on the installation of at~~  
21 ~~least three thousand employees.~~

22 ~~(b) In addition to the designation in subitem (a), a county~~  
23 ~~in which an applicable military installation or applicable federal~~  
24 ~~facility is located is allowed an additional increased credit~~  
25 ~~designation for five years beginning with the year the installation~~  
26 ~~or facility meets the requirements.~~

27 ~~(c) Notwithstanding the designations in Section~~  
28 ~~12-6-3360, Laurens, Cherokee, and Union Counties shall qualify~~  
29 ~~for the next increased credit designation.~~

30 ~~(d) In a county where less than five percent of the work~~  
31 ~~force is in manufacturing, the credit allowed is one tier higher than~~  
32 ~~the credit for which the county would otherwise qualify.~~

33 ~~(e) For a job created in a county that is not traversed by an~~  
34 ~~interstate highway, the credit allowed is one tier higher than the~~  
35 ~~credit for which jobs created in the county would otherwise~~  
36 ~~qualify. This subitem does not apply to a job created in a county~~  
37 ~~eligible for a higher tier pursuant to another provision of this item.~~

38 ~~(f) In a county in which one employer has lost at least~~  
39 ~~1,500 jobs in a calendar year, the credit allowed is one tier higher~~  
40 ~~than the credit for which the county would otherwise qualify. The~~  
41 ~~one-tier-higher credit allowed by this subsection is allowed for five~~  
42 ~~taxable years for jobs created in 2006, 2007, and 2008. This~~



1 subsection does not apply to a job created in a county eligible for a  
2 higher tier pursuant to another provision of this section.

3 (g) ~~In a county which is at least one thousand square miles~~  
4 ~~in size and which has had an unemployment rate greater than the~~  
5 ~~state average for the past ten years and an average per capita~~  
6 ~~income lower than the average state per capita income for the past~~  
7 ~~ten years, and which is not included in any of the county~~  
8 ~~classifications contained in subitems (a) through (f) of this item,~~  
9 ~~the credit allowed is two tiers higher than the credit for which the~~  
10 ~~county otherwise would qualify.~~

11 (h) ~~In a county in which one employer has lost at least~~  
12 ~~1,500 jobs in calendar year 2006, the credit allowed is three tiers~~  
13 ~~higher than the credit for which the county would otherwise~~  
14 ~~qualify. The three tier higher credit allowed by this subsection is~~  
15 ~~allowed for five taxable years for jobs created in 2007 and 2008.~~  
16 ~~This subsection does not apply to a job created in a county eligible~~  
17 ~~for a higher tier pursuant to another provision of this section.~~

18 (C)(1) Subject to the conditions provided in subsection (N) of  
19 this section, a job tax credit is allowed for five years beginning in  
20 year two after the creation of the job for each new full-time job  
21 created if the minimum level of new jobs is maintained. The credit  
22 is available to taxpayers that increase employment by ten or more  
23 full-time jobs, and no credit is allowed for the year or any  
24 subsequent year in which the net employment increase falls below  
25 the minimum level of ten. The amount of the initial job credit is as  
26 follows:

27 (a) Eight thousand dollars for each new full-time job  
28 created in distressed Tier V counties.

29 (b) Four thousand five hundred dollars for each new  
30 full-time job created in ~~least developed~~ Tier IV counties.

31 (c) Three thousand five hundred dollars for each new  
32 full-time job created in ~~under developed~~ Tier III counties.

33 (d) Two thousand five hundred dollars for each new  
34 full-time job created in ~~moderately developed~~ Tier II counties.

35 (e) One thousand five hundred dollars for each new  
36 full-time job created in ~~developed~~ Tier I counties.

37 (2)(a) Subject to the conditions provided in subsection (N) of  
38 this section, a job tax credit is allowed for five years beginning in  
39 year two after the creation of the job for each new full-time job  
40 created if the minimum level of new jobs is maintained. The credit  
41 is available to taxpayers with ninety-nine or fewer employees that  
42 increase employment by two or more full-time jobs, and may be  
43 received only if the gross wages of the full-time jobs created

1 pursuant to this section amount to a minimum of one hundred  
2 twenty percent of the county's or state's average per capita  
3 income, whichever is lower. No credit is allowed for the year or  
4 any subsequent year in which the net employment increase falls  
5 below the minimum level of two. The amount of the initial job  
6 credit is as described in (C)(1).

7 (b) If the taxpayer with ninety-nine or fewer employees  
8 increases employment by two or more full-time jobs but the gross  
9 wages do not amount to a minimum one hundred twenty percent of  
10 the county's or state's average per capita income, whichever is  
11 lower, then the amount of the initial job credit is as follows:

12 (i) Four thousand dollars for each new full-time job  
13 created in ~~distressed~~ Tier V counties.

14 (ii) Two thousand two hundred fifty dollars for each  
15 new full-time job created in ~~least developed~~ Tier IV counties.

16 (iii) One thousand seven hundred fifty dollars for each  
17 new full-time job created in ~~under developed~~ Tier III counties.

18 (iv) One thousand two hundred fifty dollars for each  
19 new full-time job created in ~~moderately developed~~ Tier II counties.

20 (v) Seven hundred fifty dollars for each new full-time  
21 job created in ~~developed~~ Tier I counties.

22 (D) If the taxpayer qualifying for the new jobs credit under  
23 subsection (C) creates additional new full-time jobs in years two  
24 through six, the taxpayer may obtain a credit for those new jobs for  
25 five years following the year in which the job is created. The  
26 amount of the credit for each new full-time job is the same as  
27 provided in subsection (C).

28 (E)(1) Taxpayers which qualify for the job tax credit provided  
29 in subsection (C) and which are located in a business or industrial  
30 park jointly established and developed by a group of counties  
31 pursuant to Section 13 of Article VIII of the Constitution of this  
32 State are allowed an additional one thousand dollar credit for each  
33 new full-time job created. This additional credit is permitted for  
34 five years beginning in the taxable year following the creation of  
35 the job.

36 (2) Taxpayers which otherwise qualify for the job tax credit  
37 provided in subsection (C) and which are located and the  
38 qualifying jobs are located on property where a response action has  
39 been completed pursuant to a nonresponsible party voluntary  
40 cleanup contract pursuant to Article 7, Chapter 56 of Title 44, the  
41 Brownfields Voluntary Cleanup Program, are allowed an  
42 additional one thousand dollar credit for each new full-time job  
43 created. This additional credit is permitted for five years

1 beginning in the taxable year following the creation of the job. No  
2 credit under this item is allowed a taxpayer that is a 'responsible  
3 party' as defined in that article.

4 (F)(1) The number of new and additional new full-time jobs is  
5 determined by comparing the monthly average number of full-time  
6 employees subject to South Carolina income tax withholding in the  
7 applicable county for the taxable year with the monthly average in  
8 the prior taxable year. For purposes of calculating the monthly  
9 average number of full-time employees in the first year of  
10 operation in this State, a taxpayer may use the actual months in  
11 operation or a full twelve-month period. If a taxpayer's business is  
12 in operation for less than twelve months a year, the number of new  
13 and additional new full-time jobs is determined using the monthly  
14 average for the months the business is in operation.

15 (2)(a) A taxpayer who makes a capital investment of at least  
16 fifty million dollars at a single site within a three-year period may  
17 elect to have the number of new and additional new full-time jobs  
18 determined by comparing the monthly average number of full-time  
19 jobs subject to South Carolina income tax withholding at the site  
20 for the taxable year with the monthly average for the prior taxable  
21 year.

22 (b) For purposes of this item, 'single site' means a  
23 stand-alone building whether or not several stand-alone buildings  
24 are located in one geographical location.

25 (c) The calculation of new and additional jobs provided  
26 for in this item is allowed for only a five-year period commencing  
27 in the year in which the fifty million dollars of capital investment  
28 is completed.

29 (d) For purposes of this subsection a 'new job' does not  
30 include a job transferred from one site to another site by the  
31 taxpayer or a related person. A related person includes any entity  
32 or person that bears a relationship to the taxpayer as set forth in  
33 Section 267 of the Internal Revenue Code. ~~However, this~~  
34 ~~exclusion of a new job created by a job transferred from one site to~~  
35 ~~another site does not extend to a job created at a new or expanded~~  
36 ~~facility located in a county in which is located an 'applicable~~  
37 ~~federal facility' as defined in Section 12-6-3450(A)(1)(b).~~

38 (G) Except for credits carried forward under subsection (H), the  
39 credits available under this section are only allowed for the job  
40 level that is maintained in the taxable year that the credit is  
41 claimed. If the job level for which a credit was claimed decreases,  
42 the five-year period for eligibility for the credit continues to run.

1 (H) A credit claimed pursuant to this section but not used in a  
2 taxable year may be carried forward for fifteen years from the  
3 taxable year in which the credit is earned by the taxpayer. Credits  
4 that are carried forward must be used in the order earned and  
5 before jobs credits claimed in the current year. A taxpayer who  
6 earns credits allowed by this section and who also is eligible for  
7 the moratorium provided in Section 12-6-3367 may claim the  
8 credits and may carry forward unused credits beginning after the  
9 moratorium period expires.

10 (I) The merger, consolidation, or reorganization of a taxpayer,  
11 where tax attributes survive, does not create new eligibility in a  
12 succeeding taxpayer, but unused job tax credits may be transferred  
13 and continued by the succeeding taxpayer subject to the limitations  
14 of Section 12-6-3320. In addition, a taxpayer may assign its rights  
15 to its jobs tax credit to another taxpayer if it transfers all or  
16 substantially all of the assets of the taxpayer or all or substantially  
17 all of the assets of a trade or business or operating division of a  
18 taxpayer related to the generation of the jobs tax credits to that  
19 taxpayer if the required number of new jobs is maintained for that  
20 amount of credit. A taxpayer is not allowed a jobs tax credit if the  
21 net employment increase for that taxpayer falls below two. The  
22 appropriate agency shall determine if qualifying net increases or  
23 decreases have occurred and may require reports, adopt rules or  
24 promulgate regulations, and hold hearings needed for  
25 substantiation and qualification.

26 (J) For a taxpayer which plans a significant expansion in its  
27 labor forces at a location in this State, the appropriate agency shall  
28 prescribe certification procedures to ensure that the taxpayer can  
29 claim credits in future years even if a particular county is removed  
30 from the list of ~~distressed, least developed, under developed, or~~  
31 ~~moderately developed~~ Tier V, Tier IV, Tier III, or Tier II counties.

32 (K)(1) An S corporation, limited liability company taxed as a  
33 partnership, or partnership that qualifies for a credit under this  
34 section may pass through the credit earned to each shareholder of  
35 the S corporation, partner of the partnership, or member of the  
36 limited liability company. For purposes of this subsection, limited  
37 liability company means a limited liability company taxed as a  
38 partnership.

39 (a) The amount of the credit allowed a shareholder,  
40 partner, or member by this subsection is equal to the shareholder's  
41 percentage of stock ownership, partner's interest in the partnership,  
42 or member's interest in the limited liability company for the  
43 taxable year multiplied by the amount of the credit earned by the

1 entity. This nonrefundable credit is allowed against taxes due  
2 under Section 12-6-510 or 12-6-530 ~~and bank taxes imposed~~  
3 ~~pursuant to Chapter 11 of this title~~ and may not exceed fifty  
4 percent of the shareholder's, partner's, or member's tax liability  
5 under Section 12-6-510 or 12-6-530 ~~or bank tax liability imposed~~  
6 ~~pursuant to Chapter 11 of this title.~~

7 (b) Notwithstanding subitem (a), the credit earned  
8 pursuant to this section by an S corporation owing corporate level  
9 income tax must be used first at the entity level. Only the  
10 remaining credit passes through to each shareholder.

11 (3) A credit claimed pursuant to this subsection but not used  
12 in a taxable year may be carried forward by each shareholder,  
13 partner, or member for fifteen years from the close of the tax year  
14 in which the credit is earned by the S corporation, partnership, or  
15 limited liability company. The entity earning the credit may not  
16 carry over credit that passes through to its shareholders, partners,  
17 or members.

18 ~~(L) Notwithstanding any other provision of this section, a~~  
19 ~~county with a population under twenty-five thousand as~~  
20 ~~determined by the most recent United States Census shall receive~~  
21 ~~the next increased credit designation for purposes of the credit~~  
22 ~~allowed by this section.~~

23 ~~(M)~~ As used in this section:

24 (1) 'Taxpayer' means a sole proprietor, partnership,  
25 corporation of any classification, limited liability company, or  
26 association taxable as a business entity that is subject to South  
27 Carolina taxes as contained in Section 12-6-510, Section 12-6-530,  
28 Chapter 11 of Title 12, or Chapter 7 of Title 38.

29 (2) 'Appropriate agency' means the Department of Revenue,  
30 except that for taxpayers subject to the premium tax imposed by  
31 Chapter 7 of Title 38, it means the Department of Insurance.

32 (3) 'New job' means a job created in this State at the time a  
33 new facility or an expansion is initially staffed. Except as  
34 otherwise provided in this item, the term does not include a job  
35 created when an employee is shifted from an existing location in  
36 this State to a new or expanded facility whether the transferred job  
37 is from, or to, a facility of the taxpayer or a related person. A  
38 related person includes any entity or person that bears a  
39 relationship to the taxpayer as described in Section 267 of the  
40 Internal Revenue Code. However, this exclusion of a new job  
41 created by employee shifting does not extend to a job created at a  
42 new or expanded facility located in a county in which is located an  
43 'applicable federal facility' as defined in Section

1 12-6-3450(A)(1)(b). The term 'new job' also includes an existing  
2 job at a facility of an employer which is reinstated after the  
3 employer has rebuilt the facility due to:

4 (a) its destruction by accidental fire, natural disaster, or  
5 act of God;

6 (b) involuntary conversion as a result of condemnation or  
7 exercise of eminent domain by the State or any of its political  
8 subdivisions or by the federal government.

9 Destruction for purposes of this provision means that more than  
10 fifty percent of the facility was destroyed. For purposes of this  
11 section, involuntary conversion as a result of condemnation or  
12 exercise of eminent domain includes a legally binding agreement  
13 for the purchase of a facility of an employer entered into between  
14 an employer and the State of South Carolina or a political  
15 subdivision of the State under threat of exercise of eminent domain  
16 by the State or its political subdivision.

17 The year of reinstatement is the year of creation of the job. All  
18 reinstated jobs qualify for the credit pursuant to this section, and a  
19 comparison is not required to be made between the number of  
20 full-time jobs of the employer in the taxable year and the number  
21 of full-time jobs of the employer with the corresponding period of  
22 the prior taxable year.

23 ~~Notwithstanding another provision of law, 'new job' includes~~  
24 ~~jobs created by a taxpayer when the taxpayer hires more than five~~  
25 ~~hundred full-time individuals:~~

26 ~~(a) at a manufacturing facility located in a county classified as~~  
27 ~~distressed;~~

28 ~~(b) immediately before their employment by the taxpayer, the~~  
29 ~~individuals were employed by a company operating, as of the~~  
30 ~~effective date of this paragraph, under Chapter 11 of the United~~  
31 ~~States Bankruptcy Code; and~~

32 ~~(c) the taxpayer, as an unrelated entity, acquires as of March~~  
33 ~~12, 2004, substantially all of the assets of the company operating~~  
34 ~~under Chapter 11 of the United States Bankruptcy Code.~~

35 (4) 'Full-time' means a job requiring a minimum of  
36 thirty-five hours of an employee's time a week for the entire  
37 normal year of company operations or a job requiring a minimum  
38 of thirty-five hours of an employee's time for a week for a year in  
39 which the employee was hired initially for or transferred to the  
40 South Carolina facility. For the purposes of this section, two  
41 half-time jobs are considered one full-time job. A 'half-time job'  
42 is a job requiring a minimum of twenty hours of an employee's  
43 time a week for the entire normal year of the company's operations

1 or a job requiring a minimum of twenty hours of an employee's  
2 time a week for a year in which the employee was hired initially  
3 for or transferred to the South Carolina facility.

4 (5) 'Manufacturing facility' means an establishment where  
5 tangible personal property is produced or assembled.

6 (6) 'Processing facility' means an establishment that  
7 prepares, treats, or converts tangible personal property into  
8 finished goods or another form of tangible personal property. The  
9 term includes a business engaged in processing agricultural,  
10 aquacultural, or maricultural products. It does not include an  
11 establishment in which retail sales of tangible personal property  
12 are made to retail customers.

13 (7) 'Warehousing facility' means an establishment where  
14 tangible personal property is stored but does not include any  
15 establishment where retail sales of tangible personal property are  
16 made to retail customers.

17 (8) 'Distribution facility' means an establishment where  
18 shipments of tangible personal property are processed for delivery  
19 to customers. The term does not include an establishment where  
20 retail sales of tangible personal property are made to retail  
21 customers on more than twelve days a year except for a facility  
22 which processes customer sales orders by mail, telephone, or  
23 electronic means, if the facility also processes shipments of  
24 tangible personal property to customers and if at least seventy-five  
25 percent of the dollar amount of goods sold through the facility are  
26 sold to customers outside of South Carolina. Retail sales made  
27 inside the facility to employees working at the facility are not  
28 considered for purposes of the twelve-day and seventy-five percent  
29 limitation. For purposes of this definition, 'retail sale' and  
30 'tangible personal property' have the meaning provided in Chapter  
31 36 of this title.

32 (9) 'Research and development facility' means an  
33 establishment engaged in laboratory, scientific, or experimental  
34 testing and development related to new products, new uses for  
35 existing products, or improving existing products. The term does  
36 not include an establishment engaged in efficiency surveys,  
37 management studies, consumer surveys, economic surveys,  
38 advertising, promotion, banking, or research in connection with  
39 literary, historical, or similar projects.

40 (10) 'Corporate office facility' means a corporate  
41 headquarters that meets the definition of a 'corporate headquarters'  
42 contained in Section 12-6-3410(J)(1). ~~The corporate headquarters~~  
43 ~~of a general contractor licensed by the South Carolina Department~~

1 of Labor, Licensing and Regulation qualifies even if it is not a  
2 regional or national headquarters as those terms are defined in  
3 Section 12-6-3410(J)(1).

4 (11) The terms 'retail sales' and 'tangible personal property'  
5 for purposes of this section are defined in Chapter 36 of this title.

6 (12) 'Tourism facility' means an establishment used for a  
7 theme park; amusement park; historical, educational, or trade  
8 museum; botanical garden; cultural center; theater; motion  
9 picture production studio; convention center; arena; auditorium;  
10 or a spectator or participatory sports facility; and similar  
11 establishments where entertainment, education, or recreation is  
12 provided to the general public. Tourism facility also includes new  
13 hotel and motel construction, except that to qualify for the credits  
14 allowed by this section and regardless of the county in which the  
15 facility is located, the number of new jobs that must be created by  
16 the new hotel or motel is twenty or more. It does not include that  
17 portion of an establishment where retail merchandise or retail  
18 services are sold directly to retail customers.

19 (13) 'Qualifying service-related facility' means:

20 (a) an establishment engaged in an activity or activities  
21 listed under the North American Industry Classification System  
22 Manual (NAICS) Section 62, subsectors 621, 622, and 623; or

23 (b) a business, other than a business engaged in legal,  
24 accounting, banking, or investment services or retail sales, which  
25 has a net increase of at least:

26 (i) ~~two~~ one hundred fifty jobs at a single location;

27 (ii) ~~one hundred twenty-five~~ seventy-five jobs at a  
28 single location and the jobs have an average cash compensation  
29 level of more than one and one-half times the lower of state per  
30 capita income or per capita income in the county where the jobs  
31 are located; or

32 (iii) ~~seventy-five~~ forty jobs at a single location and the  
33 jobs have an average cash compensation level of more than twice  
34 the lower of state per capita income or per capita income in the  
35 county where the jobs are located; ~~or~~

36 (iv) ~~thirty jobs at a single location and the jobs have an~~  
37 ~~average cash compensation level of more than two and one-half~~  
38 ~~times the lower of state per capita income or per capita income in~~  
39 ~~the county where the jobs are located.~~

40 A taxpayer shall use the most recent per capita income data  
41 available as of the end of the taxable year in which the jobs are  
42 filled. Determination of the required number of jobs is in  
43 accordance with the monthly average described in subsection (F).



1 (14) 'Technology intensive facility' means:  
2 (a) a facility at which a firm engages in the design,  
3 development, and introduction of new products or innovative  
4 manufacturing processes, or both, through the systematic  
5 application of scientific and technical knowledge. Included in  
6 this definition are the following North American Industrial  
7 Classification Systems, NAICS, codes published by the Office of  
8 the Management and Budget of the federal government:  
9 (i) 5114 database and directory publishers;  
10 (ii) 5112 software publishers;  
11 (iii) 54151 computer systems design and related  
12 services;  
13 (iv) 541511 custom computer programming services;  
14 (v) 541512 computer systems design services;  
15 (vi) 541710 scientific research and development  
16 services;  
17 (vii) 9271 space research and technology; or  
18 (b) a facility primarily used for one or more activities  
19 listed under the 2002 version of the NAICS Codes 51811 (Internet  
20 Service Providers and Web Search Portals).

21 (15) 'Extraordinary retail establishment' as defined in  
22 Sections 12-21-6520 and 12-21-6590.

23 (NM) Except for employees employed in ~~distressed~~ Tier V  
24 counties, the maximum aggregate credit that may be claimed in  
25 any tax year for a single employee pursuant to this section and  
26 Section 12-6-3470(A) is five thousand five hundred dollars."

27  
28 SECTION 11. Section 12-6-3375 of the 1976 Code, as last  
29 amended by Act 386 of 2006, is further amended to read:

30  
31 "Section 12-6-3375. (A)(1) A taxpayer engaged in  
32 manufacturing, warehousing, or distribution which uses port  
33 facilities in this State and which increases its port cargo volume at  
34 these facilities by a minimum of five percent in a single calendar  
35 year over its base year port cargo volume is eligible to claim a an  
36 income tax credit or a credit against employee withholding in the  
37 amount determined by the Coordinating Council for Economic  
38 Development (council).

39 (2) The maximum amount of tax credits allowed to all  
40 qualifying taxpayers pursuant to this section may not exceed eight  
41 million dollars for each calendar year and credits against employee  
42 withholdings may not exceed four million dollars. A qualifying  
43 ~~taxpayer may not receive more than one million dollars for each~~

**REPORT OF THE  
REVENUE POLICY SUBCOMMITTEE**  
(Cooper, Barfield, Merrill, White & AD Young - Staff Contact: Rena Grant)

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**HOUSE BILL 4514**

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H. 4514 -- Rep. Cooper: A BILL TO AMEND SECTION 12-44-30, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO REVISE THE DEFINITION OF "TERMINATION DATE"; AND TO AMEND SECTION 12-6-590, AS AMENDED, RELATING TO TREATMENT OF "S" CORPORATIONS FOR TAX PURPOSES, SO AS TO PROVIDE THAT A SPECIFIED AMOUNT OF INCOME TAXES PAID BY RESIDENT AND NONRESIDENT SHAREHOLDERS OF CERTAIN "S" CORPORATIONS MUST BE DEPOSITED INTO A SPECIAL FUND AND DISTRIBUTED BY THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT AS GRANTS FOR PUBLIC INFRASTRUCTURE IMPROVEMENTS, WHICH DIRECTLY SUPPORT THE PROJECTS, AND TO PROVIDE FOR GUIDELINES TO ADMINISTER THE FUND AND APPLICATIONS FOR THE GRANTS.

***Summary of Bill:***

This bill provides for a thirty-year period for all fee-in-lieus regardless of the the project size. Additonally, the legislation allows a ten-year extension to such a period may be granted by counties for up to a total of forty years. The ten-year extension is also available for all fee-in-lieus.

***Introduced:*** 2/3/2010

***Received by Ways and Means:*** 2/3/2010

***Estimated Fiscal Impact:***

Pending

***Subcommittee Recommendation:***

Favorable

***Full Committee Recommendation:***

***Other Notes/Comments:***

**South Carolina General Assembly**  
118th Session, 2009-2010

**H. 4514**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Cooper

Document Path: l:\council\bills\ggs\22485sd10.docx

Introduced in the House on February 3, 2010

Currently residing in the House Committee on **Ways and Means**

Summary: Income tax

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/3/2010	House	Introduced and read first time <u>HJ-3</u>
2/3/2010	House	Referred to Committee on <b>Ways and Means</b> <u>HJ-3</u>

View the latest legislative information at the LPITS web site

**VERSIONS OF THIS BILL**

2/3/2010

1  
2  
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6  
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## A BILL

9  
10

11 TO AMEND SECTION 12-44-30, AS AMENDED, CODE OF  
12 LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE  
13 FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO  
14 REVISE THE DEFINITION OF "TERMINATION DATE"; AND  
15 TO AMEND SECTION 12-6-590, AS AMENDED, RELATING  
16 TO TREATMENT OF "S" CORPORATIONS FOR TAX  
17 PURPOSES, SO AS TO PROVIDE THAT A SPECIFIED  
18 AMOUNT OF INCOME TAXES PAID BY RESIDENT AND  
19 NONRESIDENT SHAREHOLDERS OF CERTAIN "S"  
20 CORPORATIONS MUST BE DEPOSITED INTO A SPECIAL  
21 FUND AND DISTRIBUTED BY THE COORDINATING  
22 COUNCIL FOR ECONOMIC DEVELOPMENT AS GRANTS  
23 FOR PUBLIC INFRASTRUCTURE IMPROVEMENTS, WHICH  
24 DIRECTLY SUPPORT THE PROJECTS, AND TO PROVIDE  
25 FOR GUIDELINES TO ADMINISTER THE FUND AND  
26 APPLICATIONS FOR THE GRANTS.

27

28 Be it enacted by the General Assembly of the State of South  
29 Carolina:

30

31 SECTION 1. Section 12-44-30(20) of the 1976 Code, as last  
32 amended by Act 116 of 2007, is further amended to read:

33

34 "(20) 'Termination date' means the date that is the last day of a  
35 property tax year that is the ~~nineteenth~~ twenty-ninth year following  
36 the first property tax year in which an applicable piece of  
37 economic development property is placed in service; ~~provided,~~  
38 ~~however, that the~~ A sponsor may apply to the county prior to the  
39 termination date for an extension of the termination date beyond  
40 the ~~nineteenth~~ twenty-ninth year up to ten years. The county  
41 council of the county shall approve an extension by resolution  
42 upon a finding of substantial public benefit. A copy of the

1 resolution must be delivered to the department within thirty days  
2 of the date the resolution was adopted. ~~With respect to a fee~~  
3 ~~agreement involving an enhanced investment, the termination date~~  
4 ~~is the last day of a property tax year that is the twenty-ninth year~~  
5 ~~following the first property tax year in which an applicable piece~~  
6 ~~of economic development property is placed in service.~~ If the fee  
7 agreement is terminated in accordance with Section 12-44-140, the  
8 termination date is the date the agreement is terminated.”  
9

10 SECTION 2. Section 12-6-590 of the 1976 Code, as last amended  
11 by Act 116 of 2007, is further amended by adding:  
12

13 “(C) One-half of all income taxes paid by resident shareholders,  
14 and nonresident shareholders under Section 12-8-590 or other  
15 provisions of law, up to five million dollars, of an ‘S’ Corporation  
16 with a new five hundred million dollar capital investment at a  
17 single site and four hundred new employees, for a period of five  
18 years, must be paid by the department to the State Treasurer to be  
19 deposited into a fund and distributed pursuant to the approval of  
20 the Coordinating Council for Economic Development. The county  
21 or municipality in which the project is located may apply to the  
22 Council for grants from the fund by submitting a grant application.  
23 Upon review of the grant application, the Council shall determine  
24 the amount of monies to be received by each of the eligible  
25 counties or municipalities. All monies must be used for public  
26 infrastructure improvements which directly support the project.  
27 Grants may run for more than a year and may be based upon a  
28 specified dollar amount or a percentage of the monies deposited  
29 annually into the fund. After approval of a grant application, the  
30 Council may approve the release of monies. The Council shall  
31 adopt guidelines to administer the fund, including, but not limited  
32 to, grant application criteria for review and approval of grant  
33 applications.”  
34

35 SECTION 3. This act takes effect upon approval by the Governor.  
36

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37